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PART I

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HIGHLIGHTS OF THIS ISSUE

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

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(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

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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.

Rules and Regulations

Title 7—Agriculture

CHAPTER VIII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (SUGAR), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

[Sugar Reg. 811, Amdt. 3]

PART 811—CONTINENTAL SUGAR REQUIREMENTS AND AREA QUOTAS

Requirements, Quotas, and Quota Deficits for 1973

Basis and purpose and bases and considerations.—This amendment is issued pursuant to the authority vested in the Secretary of Agriculture by the Sugar Act of 1948, as amended (61 Stat. 922, as amended; 7 U.S.C. 1101), hereinafter referred to as the "Act". The purpose of this amendment to Sugar Regulation 811, as amended, is to determine and prorate or allocate the deficits in quotas established pursuant to the Act.

Section 204(a) of the Act provides that the Secretary shall, as often as facts are ascertainable by him but in any event not less frequently than each 60 days after the beginning of each calendar year, determine whether any area or country will not market the quota for such area or country. On the basis of the quota established for Puerto Rico for the calendar year 1973, a finding was heretofore made (37 FR 23624) that Puerto Rico will be unable to market its quota by 650,000 short tons, raw value, and accordingly a quota deficit was determined for Puerto Rico for 650,000 tons. On the basis of the latest information on sugar production from the current Puerto Rican crop, it is herein found that Puerto Rico will be unable to fill its sugar quota by an additional 50,000 short tons, raw value. Therefore, a total deficit is herein determined in the 1973 quota for Puerto Rico of 700,000 short tons, raw value. Accordingly, the additional quota deficit of 50,000 short tons, raw value, is herein allocated and prorated, pursuant to section 204(a) of the Act, by allocating 30.08 percent or 15,040 tons to the Republic of the Philippines and prorating the remaining 34,960 tons to Western Hemisphere countries.

If production exceeds the present estimates for Puerto Rico, the marketing opportunities for that area within the total mainland quota for that area will not be limited as a result of the deficit determination and proration provided herein.

On the basis of evidence submitted to the Department from Haiti, Panama, and the West Indies, it is hereby determined that the combined deficits and shortfalls in their 1972 quotas of 11,563 tons, 4,019 tons, and 47,050 tons, respectively, were due to crop disaster and the quotas of these countries for future years will not be subject to reduction pursuant to section 202(d)(4) of the Act.

India, Mexico, Peru, Guatemala, and Venezuela fell short of filling their 1972 quotas through combined deficits and shortfalls totaling 9,183 tons. It is hereby determined that such deficits and shortfalls were within reasonable tolerance under circumstances which prevailed last year and that the quotas of these countries for 1973 and subsequent years will not be subject to reduction pursuant to section 202(d)(4) of the Act.

It is hereby determined that deficits previously declared and that declared herein constitute all known deficits on which data are currently ascertainable by the Department.

By virtue of the authority vested in the Secretary of Agriculture by the Act, part 811 of this chapter is hereby amended by amending §§ 811.21, 811.22, and 811.23 as follows:

1. Section 811.21 is amended by amending paragraph (a)(2) to read as follows:

§ 811.21 Quotas for domestic areas.

(a)(1) * * *

(2) It is hereby determined pursuant to section 204(a) of the Act that for the calendar year 1973 the Domestic Beet Sugar Area and Puerto Rico will be unable by 49,000 and 700,000 short tons, raw value, respectively, to fill the quotas established for such areas in subparagraph (1) of this paragraph. Pursuant to section 204(b) of the Act, the determination of such deficits shall not affect the quotas established in subparagraph (1) of this paragraph.

* * * * *

2. Section 811.22 is amended by amending paragraph (a) to read as follows:

§ 811.22 Proration and allocation of deficits in quotas.

(a) Of the domestic deficits determined in § 811.22(a)(2), totaling 749,000 short tons, raw value, a quantity of 699,000 tons representing deficits in the quota of the Domestic Beet Sugar Area and Puerto Rico of 49,000 and 650,000 tons, respectively, were previously allocated and prorated in this part 811. The additional deficit determined herein in the quota for Puerto Rico of 50,000 short tons, raw value, is hereby prorated and allocated pursuant to section 204(a) of the Act, by allocating 30.08 percent or 15,040 short tons, raw value, to the Republic of the Philippines, and by prorating the remainder of the deficit totaling 34,960 short tons, raw value, to Western Hemisphere countries named in section 202(c)(3)(A) of the Act on the basis of quotas determined pursuant to section 202 of the Act.

* * * * *

3. Section 811.23 is amended by amending paragraphs (b) and (c) to read as follows:

§ 811.23 Quotas for foreign countries.

* * * * *

(b) For the calendar year 1973, the quota for the Republic of the Philippines is 1,362,631 short tons, raw value, representing 1,126,020 short tons, established pursuant to section 202(b) of the Act, 225,299 short tons established pursuant to section 204(a) the Act and 11,312 short tons established pursuant to section 202(d) of the Act. Of the quantity of 1,126,020 short tons established pursuant to section 202(b) of the Act, only 59,920 short tons, raw value, may be filled by direct-consumption sugar pursuant to section 207(d) of the Act.

(c) For the calendar year 1973, the prorations to individual foreign countries other than the Republic of the Phillippines pursuant to section 202 of the Act are shown in columns (1) and (2) of the following table. Deficit prorations previously established in this Sugar Regulation 811 are shown in column (3). New deficit prorations established herein are shown in column (4). Total quotas and prorations are shown in column (5).

Countries	Basic quotas	Temporary quotas and prorations pursuant to Sec. 202(d) [1]	Previous deficit prorations	New deficit prorations	Total quotas and prorations
	(1)	(2)	(3)	(4)	(5)
	Short tons, raw value				
Dominican Republic	405,584	137,103	103,011	7,368	653,066
Mexico	358,689	121,250	91,101	6,517	577,557
Brazil	349,817	118,252	88,847	6,355	563,271
Peru	250,322	84,618	63,577	4,548	403,065
West Indies	130,548	44,130	33,157	2,372	210,207
Ecuador	51,649	17,459	13,118	938	83,164
Argentina	48,480	16,389	12,313	881	78,063
Costa Rica	43,727	14,782	11,106	794	70,409
Colombia	43,093	14,567	10,945	783	69,388
Panama	40,875	13,818	10,382	743	65,818
Nicaragua	40,875	13,818	10,382	743	65,818
Venezuela	38,974	13,175	9,899	708	62,756
Guatemala	37,390	12,639	9,496	679	60,204
El Salvador	27,350	9,211	6,921	495	43,877
British Honduras	21,547	7,284	5,472	391	34,694
Haiti	19,645	6,641	4,990	357	31,633
Honduras	7,605	2,570	1,932	138	12,245
Bolivia	4,119	1,393	1,046	75	6,633
Paraguay	4,119	1,393	1,046	75	6,633
Australia	159,065	46,144	0	0	205,209
Republic of China	66,224	19,212	0	0	85,436
India	63,689	18,476	0	0	82,165
South Africa	44,994	13,053	0	0	58,047
Fiji Islands	34,855	10,112	0	0	44,967
Mauritius	23,448	6,802	0	0	30,250
Swaziland	23,448	6,802	0	0	30,250
Thailand	14,576	4,228	0	0	18,804
Malawi	11,724	3,401	0	0	15,125
Malagasy Republic	9,506	2,758	0	0	12,264
Ireland	5,351	0	0	0	5,351
Total	2,381,188	781,480	488,741	34,960	3,686,369

[1] Proration of the quotas withheld from Cuba, Southern Rhodesia, Bahamas, and Uganda.

* * * * *

(Secs. 201, 202, 204, and 403; 61 Stat. 923, as amended, 924, as amended, 925, as amended, 932; and 7 U.S.C. 1111, 1112, 1114, and 1153.)

Effective date.—This action determines an additional deficit in the Puerto Rican quota of 50,000 tons and prorates and allocates such deficit to the Philippines and Western Hemisphere quota countries. In order to promote orderly marketing, it is essential that this amendment be effective immediately so that all persons selling and purchasing sugar for consumption in the continental United States can promptly plan and market under the changed marketing opportunities. Therefore, it is hereby determined and found that compliance with the notice, procedure, and effective date requirements of 5 U.S.C. 553 is unnecessary, impracticable, and contrary to the public interest and this amendment shall be effective when filed for public inspection in the Office of the Federal Register.

Signed at Washington, D.C., on April 26, 1973.

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

[FR Doc.73-8534 Filed 4-27-73;11:25 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND SMALL ANIMAL PRODUCTS; EXTRAORDINARY EMERGENCY REGULATION OF INTRASTATE ACTIVITIES

PART 73—SCABIES IN CATTLE

Areas Released From Quarantine

Correction

In FR Doc. 73-7551 appearing at pages 9659-9660 in the issue of Thursday, April 19, 1973, the part heading should read as above.

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

Bank Acquisitions by Holding Companies

The Reserve banks presently have delegated authority to approve one bank holding company formations and acquisitions by existing bank holding companies of de novo banks. The Board has decided to expand this authority by delegating to the Reserve banks the authority to approve bank holding company formations involving more than one bank, acquisitions by bank holding companies of existing banks and bank mergers, and has set forth standards within which this authority may be exercised. Applications falling outside these standards will be forwarded to the Board for further consideration.

In order to accomplish this delegation, § 265.2(f) (22) and (24) are amended and § 265.2(f) (28) is added, to read as follows:

§ 265.2 Specific functions delegated to Board employees and Federal Reserve banks.

* * * * *

(f) Each Federal Reserve bank is authorized, as to member banks or other indicated organizations headquartered n its district, or under subparagraph (25) of this paragraph, as to its officers:

* * * * *

(22) Under the provisions of section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842), to approve the formation of a bank holding company through the acquisition by a company of a controlling interest in the voting shares of one or more banks, if all of the following conditions are met:

(i) No member of the Board has indicated an objection prior to the Reserve bank's action.

(ii) All relevant departments of the Reserve bank recommend approval.

(iii) No substantive objection to the proposal has been made by a bank supervisory authority, the U.S. Department of Justice, or a member of the public.

(iv) No significant policy issue is raised by the proposal as to which the Board has not expressed its view.

(v) Any offer to acquire shares of the bank or banks involved will be extended to all shareholders of the same class on a substantially equal basis.[2]

(vi) Considerations relating to the convenience and needs of the communities to be served are consistent with or lend weight toward approval of the application.

(vii) In the event any debt is incurred by the holding company to purchase shares of any bank involved in the proposal:

(*a*) An agreed plan for amortization of the debt within a reasonable time exists, such period normally not exceeding 12 years.

(*b*) The interest rate on any loan to purchase the bank shares will be comparable with other stock collateral loans by the lender to persons of comparable credit standing.

(*c*) No compensating balances, specifically attributable to the loan, will be deposited in the lending institution and the amount of any correspondent account which the proposed subsidiary bank will maintain with the lending institution should not exceed the amount necessary to compensate the lending bank for correspondent services rendered by it to the proposed subsidiary bank.

(viii) The Reserve bank determines that the managerial and financial resources, including the equity to debt relationships, of applicant, its existing subsidiaries, and any proposed subsidiary bank, are adequate, or will be adequate within a reasonable period of time after consummation of the proposal, and any debt service requirements to which the holding company may be subject are such as to enable it to maintain the capital adequacy of any proposed subsidiary bank in the foreseeable future.

(ix) If applicant or any of applicant's existing or proposed nonbanking subsidiaries compete in the same geographic and product market as any proposed subsidiary bank, the resulting organization will control no more than 10 percent of that product or service line after consummation of the proposal.

(x) Total nonbank gross revenues of applicant and its subsidiaries do not exceed 10 percent of total operating income of the proposed banking subsidiaries.

(xi) If applicant engages, or is to engage, in nonbanking activities requiring the Board's approval under section 4(c) (8) of the act, the Reserve bank must also have delegated authority to approve the section 4(c) (8) activities.

(xii) If the proposal involves the acquisition of the controlling stock of only one bank, and any debt is incurred by the holding company to purchase shares of the bank, the amount of the loan does not exceed 75 percent of the purchase price of the shares of the proposed subsidiary bank.

(xiii) If the proposal involves the acquisition of the controlling stock of more than one bank, the following additional conditions must be met:

(*a*) In the event any debt is incurred by the holding company to purchase shares of any proposed subsidiary banks, the total amount of the debt does not exceed 10 percent of the equity capital accounts of the holding company.

(*b*) The applicant will control no more than 15 percent of total deposits in commercial banks in the State.

* * * * *

(24) Under the provisions of section 3(a) (3) of the Bank Holding Company Act (12 U.S.C. 1842), to approve the acquisition by a bank holding company of a controlling interest in the voting shares of an additional bank, if all of the following conditions are met:

(i) No member of the Board has indicated an objection prior to the Reserve bank's action.

(ii) All relevant departments of the Reserve bank recommend approval.

(iii) No substantive objection to the proposal has been made by a bank supervisory authority, the U.S. Department of Justice, or a member of the public.

(iv) No significant policy issue is raised by the proposal as to which the Board has not expressed its view.

(v) Any offer to acquire shares of the bank or banks involved will be extended to all shareholders of the same class on a substantially equal basis.[2]

(vi) Considerations relating to the convenience and needs of the communities served are consistent with or lend weight toward approval of the application.

(vii) In the event any debt is incurred by the holding company to purchase shares of any bank involved in the proposal:

(*a*) An agreed plan for amortization of the debt within a reasonable time exists,

[2] Less than all of the outstanding shares of the bank may be acquired provided that where a greater number of shares are tendered than are proposed to be purchased, the offeror will purchase the shares tendered on a pro rata basis (except for fractional interests) according to the number of shares tendered by each shareholder. Where an offer is not identical to all shareholders, the burden is on the applicant to demonstrate the substantial equivalence of the offers extended.

[2] Less than all of the outstanding shares of the bank may be acquired provided that where a greater number of shares are tendered than are proposed to be purchased, the offeror will purchase the shares tendered on a pro rata basis (except for fractional interests) according to the number of shares tendered by each shareholder. Where an offer is not identical to all shareholders, the burden is on the applicant to demonstrate the substantial equivalence of the offers extended.

such period normally not exceeding 12 years.

(b) The interest rate on any loan to purchase the bank shares will be comparable with other stock collateral loans by the lender to persons of comparable credit standing.

(c) No compensating balances, specifically attributable to the loan, will be deposited in the lending institution and the amount of any correspondent account which the proposed subsidiary bank will maintain with the lending institution should not exceed the amount necessary to compensate the lending bank for correspondent services rendered by it to the proposed subsidiary bank.

(viii) The Reserve bank determines that the managerial and financial resources, including the equity to debt relationships, of applicant, its existing subsidiaries, and any proposed subsidiary bank, are adequate, or will be adequate within a reasonable period of time after consummation of the proposal, and any debt service requirements to which the holding company may be subject are such as to enable it to maintain the capital adequacy of any existing or proposed subsidiary bank in the foreseeable future.

(ix) If applicant or any of applicant's existing or proposed nonbanking subsidiaries compete in the same geographic and product market as any proposed subsidiary, the resulting organization will not control more than 10 percent of that product or service line after consummation of the proposal.

(x) Total nonbank gross revenues of the applicant and its subsidiaries do not exceed 10 percent of total operating income of the company's existing or proposed bank subsidiaries.

(xi) If applicant engages, or is to engage, in nonbanking activities requiring the Board's approval under section 4(c)(8) of the act, the Reserve bank must also have delegated authority to approve the section 4(c)(8) activities.

(xii) In the event any debt is incurred by applicant to purchase shares of the bank, the resulting total acquisition debt of the holding company will not exceed 10 percent of the company's equity capital accounts after consummation of the proposal.

(xiii) Unless the proposed subsidiary is a proposed new bank, applicant will control no more than 15 percent of deposits in the State atfer consummation of the proposal.

(xiv) If the bank to be acquired is an existing bank and if no banking offices of applicant's existing subsidiary banks are located in the same market as the proposed subsidiary, the proposed subsidiary has no more than $25 million in deposits or controls no more than 15 percent of market deposits.

(xv) If the bank to be acquired is an existing bank and if any of applicant's existing subsidiary banks compete in the same market as the proposed subsidiary, applicant will control no more than 10 percent of market deposits after consummation.

(xvi) If the bank to be acquired is a proposed new bank, bank subsidiaries of applicant will not hold in the aggregate more than 20 percent of the commercial bank deposits in the relevant market area and applicant will not be one of the dominant banking organizations in the State.

(xvii) Applicant has a proven record of furnishing to its subsidiaries, when needed, special services, management, capital funds, and general guidance.

* * * * *

(28) Under the provisions of section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)), to approve a merger, consolidation, acquisition of assets, or assumption of liabilities, where the resulting bank is a State member bank, if all of the following conditions are met:

(i) No member of the Board has indicated an objection prior to the Reserve bank's action.

(ii) All relevant departments of the Reserve bank recommend approval.

(iii) No substantive objection to the proposal has been made by a bank supervisory authority, the U.S. Department of Justice, or a member of the public.

(iv) No significant policy issue is raised by the proposal as to which the Board has not expressed its view.

(v) If the banks do not have offices in the same market, the bank to be acquired has no more than $25 million in deposits or controls no more than 15 percent of market deposits.[4]

(vi) If the banks compete in the same banking market, the resulting bank will control no more than 10 percent of market deposits.[5]

(vii) If a parent holding company or any of its subsidiaries competes in the same geographic and product market as the bank to be acquired, or any of its subsidiaries, the holding company will control no more than 10 percent of that product or service line after consummation of the proposal.

(viii) The Reserve bank determines that the managerial and financial resources, including the equity capital accounts of the resulting bank, are adequate, or will be adequate within a reasonable period of time after the proposal is consummated.

(ix) Considerations relating to the convenience and needs of the communities to be served are consistent with, or lend weight toward, approval of the application.

* * * * *

Effective date.—This amendment is effective with respect to applications accepted by the Reserve banks after the date of this order.

By order of the Board of Governors, April 23, 1973.

[SEAL] CHESTER B. FELDBERG,
Assistant Secretary of the Board.

[FR Doc.73-8620 Filed 5-2-73;8:45 am]

[4] If either of the proponent banks is a subsidiary of a holding company, and the parent company has another bank subsidiary operating in the market of the bank to be acquired, deposits of such offices should be included in the computation of market shares.

[5] See footnote 4, above.

CHAPTER V—FEDERAL LOAN BANK BOARD

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 73-599]

PART 545—OPERATIONS

Real Estate To Be Used for Office and Related Facilities

APRIL 26, 1973.

The Federal Home Loan Bank Board, in document No. 72-1430, dated December 5, 1972, proposed to amend part 545 of the rules and regulations for the Federal Savings and Loan System (12 CFR part 545) for the purpose of revising the regulatory provisions regarding investments by Federal savings and loan associations in real estate to be used for office and related facilities. Notice of such proposed rulemaking was duly published in the FEDERAL REGISTER on December 12, 1972 (37 FR 26437), with an invitation for interested persons to submit written comments by January 12, 1973.

On the basis of its consideration of all relevant material presented by interested persons and otherwise available, the Board hereby amends said part 545 by revising § 545.10 thereof, effective June 1, 1973, to read as set forth below.

The present regulations do not permit Federal associations to invest in real estate to be used as officesites for certain office facilities (including branch, drive-in, pedestrian, satellite, and certain agency facilities) prior to the Board's approval of applications to establish such facilities. The principal change (from the present regulations) contained in the proposal would permit certain real estate investments to be made subject to certain limitations and requirements, prior to the Board's approval to locate an office on such real estate. Regarding the acquisition of such real estate, the proposal provided in part that: (1) The association would be required to adopt a plan designating proposed sites for which branch or other office facility applications would be filed within a year of site acquisition, (2) each site would have to be limited in area to that reasonably needed for the conduct of the association's business, and (3) a reserve would have to be set up for each such site acquired. Regarding the disposition of such real estate, the proposal required an association to dispose of a site if no application for a branch or other office facility at that location is filed within a year after site acquisition (unless an extension of time is granted by the Board or its Supervisory Agent) or if an application is disapproved and no new application for a branch or other office facility on the same site is timely filed.

The final regulations adopted by the Board do not contain such detailed limitations and requirements regarding acquisition and disposition of such real estate. In addition to retaining the substance of the present and proposed regulations regarding investments in real estate to be used as office or related facilities after the Board's approval of applications to establish such facilities on such real estate, the final regulations permit

an association to make and maintain investments in such real estate prior to the Board's approval of such applications if such investments are made and maintained pursuant to a "prudent program of property acquisition" and the outstanding aggregate book value of all such investments does not exceed 25 percent of the association's net worth. The final regulations do not prescribe specific time limitations regarding the disposition of such real estate when an association changes its plans or an association's application is disapproved. Management will be required to act responsibly and to dispose prudently of real estate no longer needed to effect its program of site acquisitions for office facilities.

The present regulations limit investments in all office real estate to an overall amount not in excess of the association's general reserves and surplus and the proposal substituted the words "net worth" for the words "general reserves and surplus". The final regulations retain the "net worth" language contained in the proposal and provide further that the amount of the outstanding book value of each parcel of office-facility real estate shall be the amount used for the purpose of complying with the regulatory amount limitation.

The present regulations prohibit certain "insider" transactions involving an officer, director, or employee of a Federal association. The proposal would extend the regulatory prohibition to certain transactions involving the spouses of such persons, but would remove the present regulatory prohibition as to a corporation, association, or partnership if there is no "interlock" and the ownership interest of such person in the entity which owns the office property is an interest of less than 10 percent. The final regulations adopt the substance of the proposal except that the final regulations (not the proposal) permit a Federal association to invest in property owned by a service corporation in which the association maintains an investment pursuant to § 545.9–1. Also certain editorial changes regarding "insider" transactions have been made.

The present regulations contain no procedure for making requests for Board approval of exceptions to the provisions of § 545.10. The proposal contained such a procedure which specified that any such request should be transmitted to the Office of Examinations and Supervision, with a copy thereof to the Supervisory Agent. The final regulations specify that such requests should be transmitted to the Supervisory Agent, with a copy thereof to the Director of the Office of Examinations and Supervision.

In the first sentence of § 545.10(a) of the final regulations (but not in the present regulations or the proposal) the words "or sale" appear after the words "for rental". These additional words are intended to permit an association to sell (on a cooperative, condominium, or other basis) any part of its office-facility property which it does not need for its own operations.

The proposal included an amendment to the first sentence of § 545.14(a)(2) so as to specifically refer to § 545.10 as an exception from the prohibition against establishing a branch office without prior approval by the Board. This cross-reference has been omitted from the final regulations because such exception is implicit in the language of § 545.10 as adopted in final form.

The text of the revised § 545.10 is as follows:

§ 545.10 Real estate for office and related facilities.

(a) *Prudent program of acquisition; amount limitation.*—Subject to the limitations contained in this section, a Federal association may invest in real estate (improved or unimproved) to be used for office and related facilities of the association, or for such office and related facilities and for rental or sale, if each such investment is made and maintained pursuant to a prudent program of property acquisition to meet either the association's present needs or its reasonable future needs for office and related facilities. Except with the prior approval of the Board, no such investment may be made before the Board has approved an application for the establishment or maintenance of an office facility at the location of such real estate or the change of an office facility to such location, if, as a result of such investment, the outstanding aggregate book value of all such investments made before such Board approval would exceed 25 percent of the association's net worth. Except with the prior approval of the Board, no such investment may be made before or after the Board has approved an application, if any such application is required, for the establishment or maintenance of an office facility at the location of such real estate or the change of an office facility to such location, if, as a result of such investment, the outstanding aggregate book value of all such investments made before and after such Board approval would exceed the association's net worth.

(b) *Prohibited transactions.*—Except with the prior written approval of the Board, no Federal association may acquire real estate by investment pursuant to the provisions of this section from any of the following:

(1) An officer, director, or employee of the association, or the spouse of any such officer, director, or employee;

(2) A corporation, other than a service corporation in which the association maintains an investment pursuant to § 545.9–1, in which any officer or director of the association, or the spouse of any such officer or director, is an officer, director, or has a stock interest of 10 percent or more; or

(3) A partnership in which any officer or director of the association, or the spouse of any such officer or director, is a general partner, or a limited partner with an interest of 10 precent or more.

(c) *Requests for Board approval of exceptions.*—Any request by a Federal association for Board approval of an exception to the limitations contained in this section shall be transmitted to the Supervisory Agent with a copy thereof to the Director, Office of Examinations and Supervision, 101 Indiana Avenue NW., Washington, D.C. 20552. As used in this section, the term "Supervisory Agent" means the President of the Federal Home Loan Bank of which the Federal association is a member or any other officer or employee of such bank designated by the Board as its agent pursuant to § 501.11 of this chapter.

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

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER,
Secretary.

[FR Doc.73–8750 Filed 5–2–73;8:45 am]

SUBCHAPTER E—DISTRICT OF COLUMBIA SAVINGS AND LOAN ASSOCIATIONS AND BRANCH OFFICES

[No. 73–600]

PART 582a—OPERATIONS OF DISTRICT OF COLUMBIA ASSOCIATIONS

Investments by District of Columbia Associations in Real Estate To Be Used for Office and Related Facilities

APRIL 26, 1973.

The Federal Home Loan Bank Board, in Document No. 72–1431, dated December 5, 1972, proposed to amend part 582a of the "Regulations for District of Columbia Savings and Loan Associations and Branch Offices" (12 CFR Part 582a) and, at the same time, the Federal Home Loan Bank Board, in Document No. 72–1430, dated December 5, 1972, proposed to amend part 545 of the "Rules and Regulations for the Federal Savings and Loan System" (12 CFR Part 545) for the purpose of revising the regulatory provisions regarding investments by Federal and District of Columbia associations in real estate to be used for office and related facilities. In substance, the proposed and this final amendment to said part 582a provide that any District of Columbia association may, if not inconsistent with the terms of its charter, certificate, or articles of incorporation, constitution, or bylaws, make and maintain investments in real estate to be used for office and related facilities to the same extent that a Federal savings and loan assocaition may do so pursuant to the provisions of § 545.10 of the Federal regulations as now or hereafter amended. Notice of such proposal regarding District of Columbia associations was duly published in the FEDERAL REGISTER on December 12, 1972 (37 FR 26438), with an invitation for interested persons to submit written comments by January 12, 1973.

On the basis of its consideration of all relevant material presented by interested persons and otherwise available, the Board hereby amends § 582a.1 (12 CFR 582a.1) of said part 582a by adding thereto a new paragraph (c), immediately after paragraph (b), effective June 1, 1973, to read as set forth below.

It is noted that the said Document No. 72-1431 proposed to amend the first sentence of § 582.1(a)(1) of part 582.1 of said regulations for District of Columbia associations (12 CFR 582.1(a)(1)) so as to specifically refer to § 582a.1 as an exception from the prohibition against establishing a branch office without prior approval by the Board. This cross reference has been omitted from the final regulations because such exception is implicit in the language of §§ 545.10 and 528a.1(c) as adopted in final form at this time.

The text of the new § 582a.1(c) is as follows:

§ 582.a1 Miscellaneous activities.

Any District of Columbia association may, if not inconsistent with the terms of its charter, certificate, or articles of incorporation, constitution, or bylaws, to the same extent as it could if it were a Federal savings and loan association:

* * * * *

(c) Invest in real estate (improved or unimproved) to be used for office and related facilities of the association, or for such office and related facilities and for rental or sale, and maintain such investments, pursuant to the provisions of § 545.10 of this chapter.

(Sec. 5, 48 Stat. 132, as amended; sec. 8, 48 Stat. 134, as added by sec. 913, 84 Stat. 1815; 12 U.S.C. 1464, 1466a. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER,
Secretary.

[FR Doc.73-8751 Filed 5-2-73;8:45 am]

Title 13—Business Credit and Assistance

CHAPTER IV—EMERGENCY LOAN GUARANTEE BOARD

PART 402—RULES REGARDING AVAILABILITY OF INFORMATION

Request for Records and Appeals

The Emergency Loan Guarantee Board has amended its "Rules Regarding Availability of Information," effective immediately, in order to prescribe time limits for responses to requests for information and appeals from denials of such requests, to require that a reply denying any such request shall be in writing and shall indicate the reasons for such denial and inform the requester that the denial may be appealed, and to make a minor correction.

1. Effective immediately, part 402 is amended in the following respects:

§ 402.4 [Amended]

Paragraph (a) of § 402.4 is amended by changing the words "public or private person" in the second sentence of such paragraph to read "public or private interest".

Section 402.4 is amended by adding thereto a new paragraph (c) reading as follows:

(c) *Actions on request.*—The Secretary of the Board shall, within 10 working days after receipt of a request for records, either comply with or deny such request unless for sound reasons additional time is required, in which event the Secretary shall acknowledge receipt of the request within the 10-day period and indicate the reason for such delay and the date on which it is expected that a determination as to disclosure will be forthcoming. A response denying a request for a record shall be in writing signed by the Secretary and shall specify the reason for such denial and include a statement informing the requester that the denial may be appealed as provided in § 402.6(a).

Paragraph (b) of § 402.6 is amended to read as follows:

§ 402.6 Appeal.

* * * * *

(b) The Executive Director of the Board will act upon any such appeal within 20 working days of its receipt unless for sound reasons the time for such action is deferred for a reasonable period, in which event the Executive Director shall notify the requester of the reasons for such extension and the date on which it is expected that a final reply will be forthcoming. The granting or denial of a request upon appeal shall constitute final agency action.

2a. This action is taken pursuant to and in accordance with the provisions of section 552 of title 5 of the United States Code.

b. The provisions of section 553 of title 5, United States Code, relating to notice and public participation and to deferred effective dates, are not followed in connection with the adoption of this action, because the rules involved are procedural in nature and accordingly do not constitute substantive rules subject to the requirements of such section.

Dated April 27, 1973.

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

[FR Doc.73-8679 Filed 5-2-73;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 73-EA-13; Amdt. 39-1631]

PART 39—AIRWORTHINESS DIRECTIVE

Piper Aircraft

The Federal Aviation Administration is amending § 39.13 of part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Piper PA-22 type airplanes.

There have been reports of failures in power and acceleration development due to too rapid advancement of the throttle. Since this deficiency affects aircraft of similar type design, an airworthiness directive is being issued which will require the placing of a placard on the instrument panel advising against rapid throttle advancement.

Since the foregoing deficiency can constitute a hazard to air safety, notice and public procedure hereon are impractical and cause exists for making the amendment effective in less than 30 days.

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

PIPER.—Applies to model PA-22-150, PA-22S-150, PA-22-160 and PA-22S-160 aircraft equipped with Lycoming O-320 series engines and Marvel Schebler carburetors model MA-4-SPA, Parts Nos. 10-3678-11, 10-3678-12, 10-3678-32, and to other PA-22 type aircraft which have been modified to these engine/carburetor configurations.

Compliance required within the next 10 hours in service after the effective date of this AD, unless already accomplished.

To prevent power interruption and acceleration hangup resulting from abrupt throttle movement, accomplish the following:

Attach the following operating limitation placard to the instrument panel near the throttle in full view of the pilot. Use ⅛-inch minimum size lettering.

DO NOT OPEN THROTTLE RAPIDLY—(IDLE TO FULL THROTTLE, 2 SECONDS MINIMUM)

The placard may be fabricated by the owner or operator.

This amendment is effective May 7, 1973.

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

Issued in Jamaica, N.Y., on April 20, 1973.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.73-8595 Filed 5-2-73;8:45 am]

[Docket No. 12795; Amdt. 39-1633]

PART 39—AIRWORTHINESS DIRECTIVE

Rolls Royce RB 211-22-02 and RB 211-22-02/10 Engines

There have been reports of binding of the variable inlet guide vane (VIGV) master ram feedback control linkage on Rolls Royce RB 211 series engines on Lockheed L-1011 airplanes that could lead to engine malfunctions, causing engine shutdown in flight. Since this condition is likely to exist or develop in other engines of the same type design, an airworthiness directive is being issued to require replacement or modification of an existing connecting rod in the subject linkage, at the next disassembly of the engine for cause.

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

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, and 1423;

sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c).)

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

ROLLS ROYCE (1971) LTD.—Applies to Rolls Royce RB 211-22-02 and RB 211-22-02/10 engines on Lockheed L-1011 airplanes.

Compliance is required as indicated.

To prevent improper VIGV scheduling due to binding of the variable inlet guide vanes master ram feedback control linkage accomplish the following:

At the next disassembly of an engine for cause, after the effective date of this AD, unless already accomplished, remove existing connecting rod part No. 754/2/27340 from the variable inlet guide vane control and

(a) Install serviceable modified connecting rod part No. 754/2/30438 in accordance with Plessey Aerospace Service Bulletin No. IGV 75-1 revision 1, dated May 22, 1972, or an FAA-approved equivalent; or

(b) Rework and reinstall serviceable connecting rod part No. 754/2/27340 in accordance with Plessey Aerospace Service Bulletin No. IGV 75-1 revision 1, dated May 22, 1972, or an FAA-approved equivalent.

This amendment becomes effective May 8, 1973.

Issued in Washington, D.C., on April 24, 1973.

JAMES F. RUDOLPH,
Director,
Flight Standards Service.

[FR Doc.73-8596 Filed 5-2-73;8:45 am]

[Airspace Docket No. 73-SW-10]

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

Alteration of Control Zone

The purpose of this amendment to part 71 of the Federal Aviation Regulations is to alter controlled airspace in the Victoria, Tex., terminal area.

On March 5, 1973, a notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 5911) stating the Federal Aviation Administration proposed to alter the Victoria, Tex., control zone.

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

In consideration of the foregoing, part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., June 21, 1973, as hereinafter set forth.

In § 71.171 (38 FR 351), the Victoria, Tex., control zone is amended to read:

VICTORIA, TEX.

Within a 5-mile radius of the Victoria County-Foster Airport (lat. 28°51'10" N., long. 96°55'20" W.) and within 3 miles each side of the Victoria, Tex., VOR 313° radial extending from the 5-mile radius zone to 10.5 miles northwest of the VOR.

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

Issued in Fort Worth, Tex., on April 19, 1973.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.73-8597 Filed 5-2-73;8:45 am]

[Airspace Docket No. 73-RM-3]

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

Alteration of Control Zone

On February 27, 1973, a notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 5259) stating that the Federal Aviation Administration was considering an amendment to part 71 of the Federal Aviation Regulations that would alter the description of the Aspen, Colo., control zone.

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 without change.

Effective date.—This amendment shall be effective 0901 G.m.t., August 16, 1973.

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

Issued in Aurora, Colo., on April 18, 1973.

M. M. MARTIN,
Director, Rocky Mountain Region.

In § 71.171 (38 FR 351) the description of the Aspen, Colo., control zone is amended to read as follows:

ASPEN, COLO.

Within a 5-mile radius of the Aspen-Pitkin County (Sardy Field) Airport (lat. 39°13'30" N., long. 106°52'09" W.); Within 3 miles each side of the 316° bearing from the Aspen Airport, extending from the 5-mile radius to 8.5 miles northwest of the Aspen Airport. This control zone is effective during the specific dates and times established in advance by a notice to airmen. The effective dates and times will thereafter be continuously published in the Airman's Information Manual.

[FR Doc.73-8608 Filed 5-2-73;8:45 am]

[Airspace Docket No. 73-NE-4]

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

Alteration of Control Zone Correction

On April 12, 1973, FR Doc. 73-7012 was published in the FEDERAL REGISTER (38 FR 9221) altering the Bedford, Mass., control zone. A review of the language of the document revealed that the effective date of the rule was inadvertently stated in terms of e.s.t. instead of G.m.t. Accordingly, action is taken herein to correct this error.

Since this amendment is minor in nature and is one in which members of the public are not particularly interested, notice and public procedure thereon are unnecessary, and good cause exists for making this amendment effective in less than 30 days notice.

In view of the foregoing, FR Doc. 73-7012 (38 FR 9221) is amended by deleting the phrase "0901 e.s.t." in the sentence setting forth the effective date of the amendment and inserting the phrase "0901 G.m.t." in lieu thereof.

The effective date of the original amendment (May 1, 1973) is retained.

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

Issued in Burlington, Mass., on April 16, 1973.

FERRIS J. HOWLAND,
Director, New England Region.

[FR Doc.73-8600 Filed 5-2-73;8:45 am]

[Airspace Docket No. 73-NE-5]

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

Alteration of Control Zone Correction

On April 6, 1973, FR Doc. 73-6622 was published in the FEDERAL REGISTER (38 FR 8737) altering the Portland, Maine, control zone. A review of the language of the document revealed that the effective date of the rule was inadvertently stated in terms of e.s.t. instead of G.m.t. Accordingly, action is taken herein to correct this error.

Since this amendment is minor in nature and is one in which members of the public are not particularly interested, notice and public procedure thereon are unnecessary, and good cause exists for making this amendment effective in less than 30 days notice.

In view of the foregoing, FR Doc. 73-6622 (38 FR 8737) is amended by deleting the phrase "0901 e.s.t." in the sentence setting forth the effective date of the amendment and inserting the phrase "0901 G.m.t." in lieu thereof.

The effective date of the original amendment (May 1, 1973) is retained.

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

Issued in Burlington, Mass., on April 16, 1973.

FERRIS J. HOWLAND,
Director, New England Region.

[FR Doc.73-8599 Filed 5-2-73;8:45 am]

[Airspace Docket No. 72-SO-105]

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

Alteration of Control Zone and Transition Area

On March 1, 1973, a notice of proposed rulemaking (NPRM) was published in

the FEDERAL REGISTER (38 FR 5482) stating that the Federal Aviation Administration (FAA) was considering an amendment to part 71 of the Federal Aviation Regulations that would alter the Key West, Fla., control zone and transition area.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No objections were received.

In consideration of the foregoing, part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., July 19, 1973, as hereinafter set forth.

1. In § 71.171 (38 FR 351) the Key West, Fla., control zone is amended to read as follows:

KEY WEST, FLA.

Within a 5-mile radius of Key West International Airport (lat. 24°33'22" N., long. 81°45'35" W.); within 3 miles each side of the 268° bearing from Fish Hook RBN, extending from the 5-mile radius zone to 8.5 miles west of the RBN; within 4 miles each side of Key West VORTAC 309° radial, extending from the 5- mile radius zone to 8.5 miles northwest of the VORTAC; within a 5-mile radius of Key West NAS (Boca Chica) (lat. 24°34'30" N., long. 81°41'15" W.); within 3.5 miles each side of the 251° bearing from Key West NAS UHF RBN, extending from the 5-mile radius zone to 10.5 miles west of the RBN.

2. In § 71.181 (38 FR 435) the Key West, Fla., transition area is amended to read as follows:

KEY WEST, FLA.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Key West International Airport (24°33'22" N., long. 81°45'35" W.); within 4 miles each side of Key West VORTAC 309° radius of Key West International Airport (lat. area to 9.5 miles northwest of the VORTAC; within an 8.5-mile radius of Key West NAS (Boca Chica) (lat. 24°34'30" N., long. 81°41' 15" W.).

(Secs. 307(a) and 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348(a) and 1510, and E.O. 10854, 24 FR 9565; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c).)

Issued in Washington, D.C., on April 26, 1973.

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

[FR Doc.73-8602 Filed 5-2-73;8:45 am]

[Airspace Docket No. 73-CE-3]

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

Alteration of Control Zone and Transition Area

The purpose of this amendment to part 71 of the Federal Aviation Regulations is to alter the Waterloo, Iowa, control zone and transition area.

Since designation of the Waterloo, Iowa, control zone and transition area it has been ascertained that the 200° radial referred to in both the control zone and transition area is in error. The correct radial is the 194° radial. In addition, a back course ILS approach is being designed for runway 30 at the Waterloo, Iowa, Municipal Airport with the result that the radius of the 1,200-foot floor transition area designation must be slightly increased to provide adequate protection for aircraft executing the new back course ILS approach. Action is taken herein to effect these changes.

Since these alterations correct an error and are minor in nature and are in the interest of safety, notice and public procedure hereon have been determined to be both unnecessary and impracticable.

In consideration of the foregoing, part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., June 21, 1973, as hereinafter set forth:

In § 71.171 (38 FR 351), the following control zone is amended to read:

WATERLOO, IOWA

Within a 5-mile radius of Waterloo Municipal Airport (lat. 42°33'20" N., long. 92°24'-00" W.); within 2½ miles each side of the Waterloo, Iowa, VORTAC 078° radial extending from the 5-mile-radius zone to 6 miles east of the VORTAC; and within 2½ miles each side of the Waterloo, Iowa, VORTAC 194° radial extending from the 5-mile-radius zone to 6½ miles south of the VORTAC; and within 3½ miles each side of the Waterloo, Iowa, VORTAC 001° radial extending from the 5-mile-radius zone to 10½ miles north of the VORTAC; and within 3½ miles each side of the Waterloo, Iowa, VORTAC 316° radial extending from the 5-mile-radius zone to 10½ miles northwest of the airport.

In § 71.181 (38 FR 435), the following transition area is amended to read:

WATERLOO, IOWA

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Waterloo Municipal Airport (lat. 42° 33'20" N., long. 92°24'00" W.); and within 3½ miles each side of the Waterloo ILS localizer northwest course extending from the 10-mile-radius area to 8 miles northwest of of the OM; and 3 miles each side of the Waterloo, Iowa, VORTAC 120° radial extending from the 10-mile radius to 15 miles southeast of the VORTAC; and within 3½ miles each side of the Waterloo, Iowa, VORTAC 194° radial extending from the 10-mile radius to 11½ miles south of the VORTAC; and within 3½ miles each side of the Waterloo, Iowa VORTAC 001° radial extending from the 10-mile radius to 11½ miles north of the VORTAC; and within 3½ miles each side of the Waterloo, Iowa, VORTAC 316° radial extending from the 10-mile radius to 11½ miles northwest of the VORTAC; and within 3½ miles each side of the LOC back course extending from the 10-mile radius to 16 miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface with the arc of a 29-mile-radius circle centered on the Waterloo VORTAC.

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

Issued in Kansas City, Mo., on April 11, 1973.

JOHN M. CYROCKI,
Director, Central Region.

[FR Doc.73-8601 Filed 5-2-73;8:45 am]

[Airspace Docket No. 73-EA-8]

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

Alteration of Transition Area

On page 6194 of the FEDERAL REGISTER for March 1, 1973, the Federal Aviation Administration published a proposed rule which would alter the Indiana, Pa., transition area (38 FR 506).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t., June 21, 1973.

(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 April 13, 1973.

ROBERT H. STANTON,
Acting Director, Eastern Region.

1. Amend § 71.181 of part 71 of the Federal Aviation Regulations so as to amend the description of the Indiana, Pa., transition area by inserting after "Indiana County—Jimmy Stewart Field, Indiana, Pa." the following: "within 3.5 miles each side of the Indiana County—Jimmy Stewart Field ILS localizer east course, extending from the 7-mile radius area to 12 miles each of the OM (40°-37'19" N., 78°58'43" W.)."

[FR Doc.73-8598 Filed 5-2-73;8:45 am]

[Airspace Docket No. 72-NW-17]

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

Alteration of Transition Area

On March 1, 1973, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (38 FR 5482) stating that the Federal Aviation Administration (FAA) was considering an amendment to part 71 of the Federal Aviation Regulations that would alter the Astoria, Oreg., transition area.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. No objections were received.

In consideration of the foregoing, part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., July 19, 1973, as hereinafter set forth.

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

In line 6 between the words "* * * north of the VOR;" and "* * * and that airspace extending upward from 1,200 feet. * * *", insert, "within 4.5 miles north and 9.5 miles south of the Astoria VOR 268° radial, extending from the western edge of V27 to a point 18.5 miles west of the VOR."

(Sec. 307(a) and 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348(a) and 1510, and E.O. 10854, 24 FR 9565; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c).)

Issued in Washington, D.C., on April 26, 1973.

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

[FR Doc.73-8603 Filed 5-2-73;8:45 am]

[Airspace Docket No. 73-GL-3]

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

Alteration of Transition Area

On pages 4349 and 4350 of the FEDERAL REGISTER dated February 13, 1973, the Federal Aviation Administration published a notice of proposed rulemaking which would amend § 171.181 of part 71 of the Federal Aviation regulations so as to alter the transition area at Dayton, Ohio (Montgomery County).

Interested persons were given until March 15, 1973, to submit written comments concerning the proposed amendment. The Air Transport Association concurred with the proposal. Objections to the proposal were received from the U.S. Parachute Association; Aircraft Owners and Pilots Association; Mr. G. R. Stewart, Waynesville Parachute Club; and Mr. E. C. Stewart, owner of the Waynesville Airport. All objections were based on the fact that this action would interfere with the operation of aircraft and parachute activities at the Waynesville Airport. The concerned instrument approach procedure serving Montgomery County Airport has been in existence since August 21, 1965, and the present 700-foot floor transition area which overlies one-half to three-fourths of the Waynesville Airport has existed for many years.

In view of the comments received, a review of the proposed transition area has revealed that the proposal can be adjusted so that the length of the transition area extension to the southeast will remain as presently designated and satisfy airspace requirements to protect the approach procedure, thereby providing for no change in operations conducted at Waynesville Airport. Accordingly, the proposed amendment is hereby adopted subject to the change set forth below:

Line 7 of the transition area description recited as "6-mile radius area to 8.5 miles southeast of" is corrected to read "6-mile radius area to 8 miles southeast of".

This amendment shall be effective 0901 G.m.t., June 21, 1973.

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

Issued in Des Plaines, Ill., on April 12, 1973.

H. W. POGGEMEYER,
Acting Director, Great Lakes Region.

[FR Doc.73-8605 Filed 5-2-73;8:45 am]

[Airspace Docket No. 73-SW-11]

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

Designation of Transition Area

The purpose of this amendment to part 71 of the Federal Aviation Regulations is to designate the Idabel, Okla., transition area.

On March 5, 1973, a notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 5911) stating the Federal Aviation Administration proposed to designate a 700-foot transition area at Idabel, Okla.

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

In consideration of the foregoing, part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., June 21, 1973, as hereinafter set forth.

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

IDABEL, OKLA.

That airspace extending from 700 feet above the surface within a 5-mile radius of Idabel Municipal Airport (lat. 33°54'23" N., long. 94°50'41" W.) and within 3.5 miles each side of the 349° bearing from the NDB (lat. 33°54'23" N., long. 94°54'45"W.) extending from the 5-mile radius area to a point 8 miles north of the NDB.

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

Issued in Fort Worth, Tex., on April 19, 1973.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.73-8606; Filed 5-2-73;8:45 am]

[Airspace Docket No. 73-SW-17]

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

Designation of Transition Area

The purpose of this amendment to part 71 of the Federal Aviation Regulations is to designate the Minden, La., transition area.

On March 16, 1973, a notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 7127) stating the Federal Aviation Administration proposed to designate a 700-foot transition area at Minden, La.

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

In consideration of the foregoing, part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., June 21, 1973, as hereinafter set forth.

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

MINDEN, LA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Minden-Webster Airport (lat. 32°39'00" N., long. 93°18'00" W.) and within 2.5 miles each side of Shreveport VORTAC 105° radial extending from the 5-mile radius area to 25 miles east of the VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 40 U.S.C. 1655(c).)

Issued in Fort Worth, Tex., on April 19, 1973.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.73-8607 Filed 5-2-73; 8:45 am]

[Airspace Docket No. 73-RM-8]

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

Alteration of Transition Area

On March 26, 1973, a notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 7813) stating that the Federal Aviation Administration was considering an amendment to part 71 of the Federal Aviation Regulations that would alter the transition area at West Yellowstone, Mont.

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 without change.

Effective date.—This amendment shall be effective 0901 G.m.t., June 21, 1973.

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

Issued in Aurora, Colo., on April 18, 1973.

M. M. MARTIN,
Director, Rocky Mountain Region.

In § 71.181 (38 FR 135) the description of the West Yellowstone, Mont., transition area is amended as follows:

In line 3 of the text, after "* * * 19½ miles south of the airport; * * *" insert "* * * that airspace extending upward from 1,200 feet above the surface within 5 miles either side of the 209° bearing from the Yellowstone Airport extending from the airport to 51 miles southwest of the airport * * *"

[FR Doc.73-8609 Filed 5-2-73;8:45 am]

[Airspace Docket No. 73-WA-22]

PART 73—SPECIAL USE AIRSPACE

Revocation of Restricted Area

The purpose of this amendment to part 73 of the Federal Aviation regulations is to revoke the Amchitka Island, Alaska, restricted area R-2207.

The original requirements that established R-2207 and its associated warning area W-538 have been accomplished and therefore the special use airspace is no longer required. Accordingly, action is

taken herein to revoke the Amchitka restricted area. For similar reasons, recent actions have also been completed to revoke the Amchitka control zone (38 FR 1730, Jan. 18, 1973).

Since this amendment restores airspace to the general public, notice and public procedures thereon are unnecessary and good cause exists for making this amendment effective on less than 30-day notice.

In consideration of the foregoing, part 73 of the Federal Aviation regulations is amended, effective May 3, 1973.

In § 73.22 (38 FR 630) the Amchitka Island, Alaska, restricted area, R-2207 is revoked.

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

Issued in Washington, D.C., on April 24, 1973.

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

[FR Doc.73-8604 Filed 5-2-73;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-797; Amdt. 4]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Accounting for Pension Plans

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of April 1973.

In notice of proposed rulemaking EDR-228,[1] the Board proposed amendment of part 241 of the Economic Regulations (14 CFR part 241) to require the submission of a statement of accounting practices and procedures with respect to employee pension plans. Specifically, it was proposed to add a new section 2-19 to require each air carrier which has a pension plan (or plans) to file a standard statement showing, with respect to each pension plan covered by the statement, the following information: (1) A copy of the text (or, if there is no such text, a comprehensive outline) of each plan covering pensions other than those required by law; (2) the number and classes of employee groups covered; (3) for each pension fund which forms a part of said plan, a copy of the trust agreement, declaration of trust or other instrument pursuant to which said pension fund has been established, or, if there is no such agreement, declaration of trust or other instrument, a description of the arrangement, if any, which required the payment of any pensions under each plan; and (4) a description of accounting and funding policies for each plan.

Comments in response to the rulemaking notice were filed by the Air Line Pilots Association, Inc. (ALPA), Continental Air Lines, Inc. (Continental), Delta Air Lines, Inc. (Delta), and Trans World Airlines, Inc. (TWA), and of these comments, only that of Delta generally supports the rule proposed. Upon consideration of these comments, the Board has determined for the reasons set forth hereinafter and in EDR-228, to adopt the rule with the modifications described below. Except as modified, the tentative findings set forth in the explanatory statement to the proposed rule are incorporated by reference and made final.

The principal modifications to the proposed rule are: (1) The content of the standard statement, insofar as it requires disclosure of accounting practices with respect to pension plans, has been modified to exclude the requirement to report detailed information on funding policies and actuarial assumptions with respect to such plans except actuarial assumptions made for unfunded plans or plans for which no Department of Labor Form D-2 is filed; (2) instead, carriers will be permitted to file annually, a duplicate copy of Department of Labor Form D-2 Employee Welfare or Pension Benefit Plan Annual Report Form, together with attachments thereto which disclose such funding policies and actuarial assumptions of such plans.

The comments opposing the proposed rule generally argue that the requirement to file the proposed accounting statement will impose an undue burden on carriers, and is not required to achieve any regulatory objectives. They variously take the position that the proposed rule is intended to permit a comparison of actuarial assumptions used by carriers to compute pension benefit costs. This, it is said, would be misleading in terms of evaluating the amounts expended by carriers annually for pension benefits, since each set of actuarial assumptions is based on facts and circumstances (e.g., type of pension plan, number of employees covered, mortality rate) which inevitably vary from carrier to carrier. In addition, ALPA contends that, in the long run, the proposed statement could be used by the Board to encourage carrier managements to follow "less conservative" methods of funding their pension plans, which could ultimately lead to lower pension benefits.

We find no merit in these contentions. First, we reject the argument that the reporting obligation is unduly burdensome. Our experience is that carriers already have a text or comprehensive outline of their various pension plans, so they need only file copies of these documents with the Board. Nor are we persuaded by objections grounded on the alleged onerousness of disclosing accounting policies.[2] Moreover, since, as elsewhere discussed, we have determined not to require detailed information regarding the funding or actuarial assumptions for funded pension plans on the standard statement, if we receive instead a copy of such information reported on the Department of Labor Form D-2, we think it particularly clear that the burden which the within standard statement entails is quite de minimus.[3]

Aside from contending that the rule would impose an undue burden, the opposing comments make various contentions which simply reflect a basic misunderstanding of the regulatory objectives of the proposed rule. As explained in the rulemaking notice, the Board's difficulty in attempting to evaluate the carriers' charges and accruals for pension benefits arises from the fact that the costs of pension benefits may fluctuate from year to year for a particular carrier, depending on how well the actuarial assumptions underlying the estimates of anticipated cost are borne out in actual experience. Our requirement for reports of actuarial information is thus based, not on a desire to compare actuarial assumptions from carrier to carrier, but on a need to determine the accuracy of individual carrier accounting practices with respect to pension benefit cost estimates, in light of established and recognized accounting principles. Nor does our requirement for such information imply any intention on our part to regulate the substance of carrier pension plans or to use the standard statement as a lever to persuade carrier managements to reduce their annual expenditures for employee pensions.

ALPA, Continental, and TWA argue that compliance with the proposed reporting requirement would involve a considerable duplication of effort by carriers insofar as they already file, with the Department of Labor, detailed information concerning their pension funds, pursuant to the Welfare and Pension Plan Disclosure Act. Accordingly, they suggest that the Board should allow carriers to file with the Board, in lieu of the proposed statement, copies of the aforedescribed Labor Department Form D-2.

Upon further consideration of our tentative views as expressed in EDR-228, we have decided to withdraw the proposed statement to the extent that it requires carriers to disclose their funding policies and actuarial assumptions with respect to each funded pension plan covered by the statement. In lieu thereof, we will permit carriers to file with the Board annually (attention: Director, Bureau of Accounts and Statistics), a copy of said form D-2 with respect to each such plan, concurrent with the due date prescribed therefor by the Department of Labor.[4] Since form D-2 requires disclosure of detailed information concerning the actuarial assumptions employed in computing a carrier's annual pension benefit

[1] June 22, 1972, 37 FR 12804, docket 24568.

[2] It is at least noteworthy that disclosure of such policies has been advocated by the American Institute of Certified Public Accountants. Accounting Principles Board Opinion No. 8.

[3] For the same reason, we reject TWA's request to extend, from 30 to 90 days, the time for filing statements with respect to pension plans in force on the effective date of the within rules.

[4] As of this date, within 150 days after the end of each calendar year, or, if the reporting carrier's records are kept on a policy or fiscal year basis, within 150 days after the end of each such policy or fiscal year.

costs for funded plans, we are now persuaded that there is no real need to impose on carriers the additional burden of preparing a separate summary of this information for submission to the Board with respect to such plans. On the other hand, we will adhere to the proposed statement, insofar as it requires disclosure of accounting policies and other descriptive information with respect to reported pension plans, since for the most part such matters are not required by the Department of Labor to be furnished with the carriers' filed form D–2, neither for funded nor unfunded plans.

Delta urges elimination of the requirement to file a copy of the text, or a comprehensive outline, of each pension plan covering retired or former employees or their representatives, or their beneficiaries. It alleges that this requirement would impose on Delta the undue burden of filing documents which have been in effect during various periods, in the past 30 years, but are no longer operative. It has not been our purpose in this proceeding to require filings for plans which are no longer in effect and have no impact on current costs. On the other hand, we do not wish to exempt from this reporting requirement plans which, although not currently available to employees, nonetheless have a substantial impact on current costs inasmuch as payments of benefits thereunder continue to be made to former employees. We have therefore determined to require filing with respect to an expired plan only if payments thereunder were made to 100 or more former employees during the reported year.

The Board is not persuaded to accept TWA's suggestion that we should exclude "trust annuity" plans from coverage of the proposed statement. We recognize that, under such plans, the amount of employer contributions is fixed and does not depend upon actuarial assumptions. Nevertheless, the costs related to plans funded through fixed contributions are reflected in the carrier's pension account and have an impact on the overall amount expended by a carrier each year for pensions. Accordingly, to assure a complete accumulation of data from all carriers, we find it necessary to require information regarding these "trust annuity" plans.[5]

Under the proposed rule, pension fund statements were to be filed with the Board within 30 days after the effective date of the within rules, or within 30 days after the adoption of an employee pension plan which is not in effect on such date. In the event of a change in any one of the items covered in the carrier's statement, the proposed rule would have required a supplemental statement to be filed within 30 days after the effective date of such change.

We agree, as TWA contends, that the filing requirements of the within rules should be consistent with section 22(d) of part 241 which, in relevant part, provides that statements of accounting procedures required to be filed thereunder shall be submitted prior to the date on which the procedures are to become effective.[6] Accordingly, we have modified the proposed rule to conform to the requirements of section 22(d)—i.e., (1) except with respect to pension plans in force on the effective date of the within rules,[7] section 2–19 statements will be due prior to the date on which the accounting procedures for the plans are implemented; (2) supplemental statements will be due prior to the implementation of changes in any of the items covered in the filed initial statement.

Finally, Continental urges the Board to withhold from public disclosure copies of trust agreements filed by carriers with respect to each pension plan covered by the standard statement on the grounds that its various agreements with pension fund trustees are private contracts and should not be open to public view. We will deny this request because the information Continental seeks to protect is generally made available to the public by other governmental agencies to which carriers are required to furnish copies of trust agreements and other documents pertaining to their pension plans. Consequently, we are unable to make a general finding, within the meaning of section 1104 of the act, that disclosure of such information would be adverse to carrier interests and is not required in the interest of the public.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends part 241 of the Economic Regulations (14 CFR part 241) effective June 1, 1973, as follows:

1. Amend the table of contents to the Uniform System of Accounts and Reports to insert a reference to a new section 2–19 so that the table, in pertinent part, reads as follows:

Sec.
2–19 Accounting for pension plans.

2. Amend Section 2, General Accounting Policies, by adding new section 2–19 to read as follows:

§ 2–19 Accounting for pension plans.

(a) In accordance with the provisions of section 22(d) or 32(d), as applicable, each air carrier which has an employee pension plan or plans shall file with the Director, Bureau of Accounts and Statistics, a standard statement showing with respect to each pension plan covered by the statement, the following information: (1) A copy of the text, or if there is no text, a comprehensive outline of each pension plan covering pensions, other than those required by law, to active, retired, or former employees or their representatives or beneficiaries, the cost of which is borne in whole or in part by the carrier, except that no filing will be required for a plan which does not currently apply to present employees and pursuant to which payment to less than 100 former employees and the beneficiaries or representatives of such former employees were made during the reported year; (2) the number (rounded to the nearest 50) and types of employees covered (i.e., pilots, stewardesses, mechanics, etc.); (3) for each fund which forms a part of said plan: A copy of the trust agreement, declaration of trust or other instrument pursuant to which said pension was established, or, if there is no such agreement, declaration of trust or other instrument, a description of the arrangement, if any, which requires the payment of any pensions or benefits under each plan; and (4) description of the accounting policies for each plan which, in the case of any unfunded plans, or plans for which no Department of Labor Form D–2 is filed, shall include actuarial assumptions made.

(b) In the event of a change in any of the items covered in the statement filed pursuant to paragraph (a) of this section, the carrier shall file with the Director, Bureau of Accounts and Statistics, prior to the date on which said change is implemented, a supplemental statement showing: (1) The item affected and a detailed explanation of the change; and (2) the estimated effect of the change on the carrier's pension benefit accounts.

(c) Each air carrier which is required to file the statement prescribed by paragraph (a) of this section shall also file annually with the Director, Bureau of Accounts and Statistics, in duplicate if applicable, a copy of its Department of Labor Form D–2, Employee Welfare or Pension Benefit Plan Annual Report Form, concurrent with the filing due dates prescribed by the Department of Labor.

3. Amend Section 7, Chart of Profit and Loss Accounts, by revising the title of account 57, the revised chart to read in pertinent part as follows:

[5] It should also be noted, in response to a question by TWA, that the within rule does require disclosure of pension plans which cover foreign nationals employed by carriers at overseas locations, since we have provided no exception with respect to such employees.

[6] This section also contains a provision to the effect that the Board may require modification of any previously effective procedure covered by statements of accounting and statistical procedures filed thereunder after 60 days' notice to the carrier. Because the carriers' filed accounting procedures with respect to pensions will be subject to this provision, TWA argues that, notwithstanding the informational objectives stated in the rulemaking notice, the Board will retain the power to control the substance of these procedures. There is no merit in this contention. The aforementioned provision is obviously not intended to permit substantive regulation of those areas of accounting policies and practices with respect to the items listed under section 22(d) which are exclusively within the purview of individual carrier judgment, but rather to enable the Board to require a carrier to change a filed procedure if it does not provide information sufficient for regulatory accounting purposes.

[7] Statements covering such plans are due within 30 days from said effective date.

PROFIT AND LOSS CLASSIFICATIONS

Section 7—Chart of Profit and Loss Accounts

Objective classification of profit and loss elements	Functions or financial activity to which applicable (00)		
	Group I carriers	Group II carriers	Group III carriers
* * *	*	*	*
56 Insurance—Traffic liability	69	55, 64	55, 62
57 Employee benefits and pensions.	51, 53, 69	51, 53, 55, 64, 67, 68	51, 53, 55, 61, 62, 63, 65, 66, 68
58 Injuries, loss and damage.	51, 53, 69	51, 53, 55, 64, 67, 68	51, 53, 55, 61, 62, 63, 65, 66, 68
* * *	*	*	*

4. Amend Section 13, Objective Classification—Operating Expenses, by revising the instructions thereunder for Account 57, Employee Benefits and Pensions to read as follows:

57 Employee Benefits and Pensions.

(a) Record here all costs for the benefit or protection of employees including all pension expenses whether for payments to or on behalf of retired employees or for accruals or annuity payments to provide for pensions; and all expenses for accident, sickness, hospital, and death benefits to employees or the cost of insurance or provisions for self-insurance to provide these benefits. Include, also, expenses incurred in medical, educational, or recreational activities for the benefit of employees. Do not include vacation and sick leave pay, or salaries of doctors, nurses, trainees, or instructors, which shall be recorded in the regular salary accounts.

(b) Each air carrier which records pension benefit expenses in the account required by paragraph (a) of this section, is required to file a standard statement of accounting procedures and, in addition, a copy of Department of Labor Form D-2, Employee Welfare or Pension Benefit Plan Annual Report Form as prescribed by section 2-19.

5. Amend paragraph (d) of Section 22, General Reporting Instructions, by adding new item (15) to read as follows:

Section 22—General Reporting Instructions

* * * * *

(d) Statements of accounting or statistical procedures. * * *

(15) Procedures of accounting for pension plans as prescribed by sections 2-19 and 13-57.

* * * * *

6. Amend paragraph (d) of Section 32, General Reporting Instructions, by adding a new item (14) to read as follows:

Section 23—Certification and Balance Sheets Elements

* * * * *

(d) Statements of accounting or statistical procedures * * *

(14) Procedures of accounting for pension plans as prescribed by sections 2-19 and 13-57.

* * * * *

7. Amend schedule A-1 of form 41 by adding new item 15, as shown in exhibit A attached hereto and made a part hereof.

8. The introduction of CAB Form AP-15 (A and B), as shown in exhibits B and C attached hereto.*

(Secs. 204(a), 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766; 49 U.S.C. 1324, 1377.)

By the Civil Aeronautics Board.

NOTE: The reporting requirements herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

[SEAL] EDWIN Z. HOLLAND, *Secretary.*

[FR Doc.73-8559 Filed 5-2-73;8:45 am]

[Regulation ER-798; Amdt. 7]

PART 287—EXEMPTION AND APPROVAL OF CERTAIN INTERLOCKING RELATIONSHIPS

Extension of Expiration Date

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of April 1973.

Section 287.3a (14 CFR part 287) of the economic regulations exempts direct air carriers with respect to interlocking relationships involving the directors of air carriers who are also directors, officers, or employees of commercial lending institutions which do not lease aircraft to the air carrier. This provision being merely permissive does not grant antitrust immunity, but merely allows such interlocks to exist without first obtaining the approval of the Board under part 251 of the Board's economic regulations, as otherwise required by section 409(a) of the Federal Aviation Act of 1958, as amended.

In adopting § 287.3a, the Board provided that the exemption shall expire after 3 years (i.e., on Mar. 30, 1969), since the exemption is experimental and involves some risk of potential conflict of interest. As experience under the exemption has not disclosed any basis for termination, the Board has already granted four 1-year extensions of the expiration date, to April 30, 1973, and now, for the same reason, has decided to again extend the expiration date of § 287.3a to April 30, 1975.

As this amendment extends the relief provided in the existing regulation, notice and public procedure hereon are unnecessary and the amendment may be made effective upon less than 30 days' notice.

Accordingly, the Civil Aeronautics Board hereby amends § 287.3a effective May 1, 1973, by extending the expiration date from April 30, 1973, to April 30, 1975. As amended, § 287.3a will read as follows:

§ 287.3a Exemption of air carriers with respect to interlocking relationships with commercial lending institutions.

In addition to the exemptions provided in §§287.2 and 287.3 and subject to the other provisions of this part, air carriers are hereby relieved from the provisions of section 409(a) of the act and part 251 of this chapter with respect to any interlocking relationship between any such air carrier and a commercial lending institution which does not lease aircraft to the air carrier: *Provided, however,* That such exemption shall expire on April 30, 1975, and shall extend only to the relationship involving a director of the air carrier who is not an officer or employee of the air carrier or a stockholder holding a controlling interest in the air carrier (or the representative or nominee of any such person) and who is not a member of the commercial lending institution: *Provided, further,* That in order to qualify for an exemption under this section air carriers shall file with the Bureau of Operating Rights annual reports on or before April 1 of each year showing for the previous calendar year (a) the names and addresses of all directors of the air carrier who were also directors, officers, or employees of commercial lending institutions; (b) the names and addresses of such commercial lending institutions; and (c) a description of all transactions between the air carrier (and/or its directors, who were also officers or directors of commercial lending institutions) and such commercial lending institutions.

(Secs. 101(3), 204(a), 409, 416; 72 Stat. 737, 743, 768 and 771; 49 U.S.C. 1301, 1324, 1379 and 1386.)

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND, *Secretary.*

[FR Doc.73-8715 Filed 5-2-73;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

PART 135g—TOLERANCES FOR RESIDUES FOR NEW ANIMAL DRUGS IN FOOD

Diethylstilbestrol Implants; Revocation for Use Alone or in Combination With Testosterone

Based upon a notice of withdrawal of approval of new animal drug applications with respect to diethylstilbestrol implants (Docket No. FDC-D-494) published in the FEDERAL REGISTER of April 27, 1973 (38 FR 10485), the Commissioner of Food and Drugs concludes that the corresponding regulations should be revoked regarding the use of diethylstilbestrol implants alone or in combination with testosterone.

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), parts 135b and 135g are amended as follows:

§ 135b.3 [Revoked]

1. Section 135b.3 is revoked.

§ 135b.6 [Revoked]

2. Section 135b.6 is revoked.

*Exhibits A, B, and C filed as part of the original document.

§ 135g.26 [Revoked]

3. Section 135g.26 is revoked.

§ 135g.53 [Revoked]

4. Section 135g.53 is revoked.

Effective date.—This order shall be effective May 3, 1973.

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

Dated April 27, 1973.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.73-8630 Filed 5-2-73;8:45 am]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—LAW AND ORDER

PART 11—LAW AND ORDER ON INDIAN RESERVATIONS

Technical Amendments

The U.S. Civil Service Commission published in the FEDERAL REGISTER on August 19, 1972 (37 FR 16787), a rule changing the title of hearing examiner, as used in 5 CFR part 930, subpart B, to administrative law judge.

In order to conform the Department's rules and regulations to that change in title, the Secretary of the Interior, pursuant to authority vested in him under 5 U.S.C. section 301, promulgates technical amendments to the Department's rules and regulations throughout Part 11, Subchapter B, of Chapter 1, Title 25, Code of Federal Regulations, as follows: All references to the term examiner of inheritance are deemed deleted and replaced by the term administrative law judge.

As the amendments relate to matters of internal Department organization and practice, the prior notice and public procedure provisions of 5 U.S.C. section 553 are inapplicable.

The changes are effective as of August 19, 1972.

Dated April 27, 1973.

ROGERS C. B. MORTON,
Secretary of the Interior.

[FR Doc.73-8636 Filed 5-2-738.45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7273]

PART 13—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1969

Arbitrage Bonds

This document amends § 13.4 of the Temporary Income Tax Regulations under section 103(d) of the Internal Revenue Code of 1954, relating to arbitrage bonds and published in the FEDERAL REGISTER for November 13, 1970 (35 F.R. 17406). These changes are being published contemporaneously with proposed regulations relating to arbitrage bonds. However, the proposed regulations do not contain provisions relating to governmental programs.

This amendment changes § 13.4(b)(2) of the Temporary Income Tax Regulations relating to governmental programs. Section 13.4(b)(2)(i) through (iii) currently describes a governmental program as a program in which obligations are acquired as a result of loans to a substantial number of persons representing the general public: *Provided*, That substantially all the amounts received from acquired program obligations are reinvested in the governmental program.

The proposed Treasury decision expands governmental programs to include loans to exempt persons within the meaning of section 103(c)(3). This permits programs which make loans to exempt persons such as hospitals to recoup the program's administrative costs through increased interest rates. Governmental programs would also be expanded to include loans to provide housing and related facilities. This change is made to encompass the full spectrum of housing loans and such related facilities as playgrounds and community centers. Furthermore, a Government lending program will qualify only if 90 percent, by amount of cost outstanding, of the program loans are for housing and related facilities, to exempt persons, or to a substantial number of persons representing the general public.

The change in subdivision (ii) of § 13.4(b)(2) requires that 90 percent instead of "substantially all") of the proceeds which the governmental unit receives from its lending program be used for program costs and additional qualifying loans.

In order to change the rules regarding obligations issued as part of certain governmental programs, that portion of paragraph (b)(2) of § 13.4 of the Temporary Income Tax Regulations under the Tax Reform Act of 1969 preceding subdivision (iv) thereof is amended to read as follows:

§ 13.4 Arbitrage bonds; temporary rules.

* * * * *

(b) *Rule with respect to certain governmental programs.*—* * *

(2) *Governmental programs.*—A governmental program is described in this subparagraph if—

(i) The program involves the acquisition of acquired purpose obligations to carry out the purposes of such program (which obligations, for purposes of this paragraph, are referred to as "acquired program obligations");

(ii) At least 90 percent of all such acquired program obligations, by amount of cost outstanding, are evidences of loans to a substantial number of persons representing the general public, loans to exempt persons within the meaning of section 103(c)(3), or loans to provide housing and related facilities, or any combination of the foregoing;

(iii) At least 90 percent of all of the amounts received by the governmental unit with respect to acquired program obligations shall be used for one or more of the following purposes: To pay the principal or interest or otherwise to service the debt on governmental obligations relating to the governmental program; to reimburse the governmental unit, or to pay, for administrative costs of issuing such governmental obligations; to reimburse the governmental unit, or to pay, for administrative and other costs and anticipated future losses directly related to the program financed by such governmental obligations; to make additional loans for the same general purposes specified in such program; or to redeem and retire governmental obligations at the next earliest possible date of redemption; and

* * * * *

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

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

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

Approved April 27, 1973.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

[FR Doc.73-8574 Filed 4-27-73;4:17 pm]

Title 30—Mineral Resources

CHAPTER I—BUREAU OF MINES, DEPARTMENT OF THE INTERIOR

CHAPTER V—INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

Technical Amendments

The U.S. Civil Service Commission published in the FEDERAL REGISTER on August 19, 1972 (37 FR 16787), a rule changing the title of hearing examiner, as used in 5 CFR part 930, subpart B, to administrative law judge.

In order to conform the Department's rules and regulations to that change in title, the Secretary of the Interior, pursuant to authority vested in him under 5 U.S.C. section 301, promulgates technical amendments to the Department's rules and regulations throughout Chapters I and V of Title 30, Code of Federal Regulations, as follows: All references to the terms hearing examiner and examiner are deemed deleted and replaced by the term administrative law judge.

As the amendments relate to matters of internal Department organization and practice, the prior notice and public procedure provisions of 5 U.S.C. section 553 are inapplicable.

The changes are effective as of August 19, 1972.

Dated April 27, 1973.

ROGERS C. B. MORTON,
Secretary of the Interior.

[FR Doc.73-8636 Filed 5-2-73;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FI-111]

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of part 1914 of subchapter B of chapter X of title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
*	*	*	*	*	*	*
Louisiana	Iberville Parish	Plaquemine, city of				Apr. 23, 1973, Emergency.
Do	do	White Castle, town of				Do.
New York	Westchester	New Rochelle, city of				Apr. 27, 1973, Emergency.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969.)

Issued April 24, 1973.

CHARLES W. WIECKING,
Acting Federal Insurance Administrator.

[FR Doc.73-8413 Filed 5-2-73;8:45 am]

[Docket No. FI-112]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of part 1914 of subchapter B of chapter X of title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
*	*	*	*	*	*	*
Illinois	Du Page	Naperville, city of				Apr. 30, 1973, Emergency.
Louisiana	Iberville Parish	Grosse Tete, village of.				Apr. 23, 1973, Emergency.
Do	do	Maringouin, town of				Do.
Do	do	Rosedale, village of				Do.
Do	Pointe Coupee Parish	Unincorporated areas				Do.
Do	do	Morganza, town of				Do.
Do	do	New Roads, town of				Do.
Do	St. Mary Parish	Baldwin, town of				Do.
Do	do	Franklin, city of				Do.
Michigan	Ottawa	Ferrysburg, city of				Apr. 30, 1973, Emergency.
New York	Oswego	Oswego, city of				Do.
Wisconsin	Door	Unincorporated areas				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969.)

Issued April 23, 1973.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc. 73-8414 Filed 5-2-73;8:45 am]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Emergency Temporary Standard on Certain Carcinogens

Pursuant to section 6(c) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 655) and Secretary of Labor's Order No. 12–71 (36 FR 8754), part 1910 of title 29, Code of Federal Regulations, is hereby amended in the manner set forth below, in order to provide an emergency temporary standard dealing with the exposure of employees to certain listed substances that are known to cause cancer.

Concern for the dangers inherent in the occupational exposure to carcinogenic substances was one of the reasons for enactment of the act. See Senate Report No. 91–1282, 91st Congress, 2d session, 2 (1970).

Administrative attention was addressed to the problem about 1 year ago. On May 22, 1972, the Deputy Assistant Secretary of Labor for Occupational Safety and Health requested information from the Director of the National Institute for Occupational Safety and Health (NIOSH) on nine substances alleged to be carcinogens. As part of his effort to gain the best available scientific data, the Director published on July 6, 1972, at 37 FR 13285, a request for information concerning 15 substances. The data, arguments, and conclusions received by NIOSH were made available to the Occupational Safety and Health Administration.

The Office of Standards continued its work on carcinogens in preparation for making recommendations for a standard under section 6 of the act.

On January 4, 1973, a petition for an emergency temporary standard, submitted by the Oil, Chemical, and Atomic Workers Union and Health Research Group, was received and acknowledged by the Department of Labor. The petition contained relevant information on the danger of exposure to 10 of the carcinogens listed in the standard.

On February 9, 1973, the Assistant Secretary of Labor published in the FEDERAL REGISTER (38 FR 4037), a notice of the receipt of the petition for issuance of an emergency temporary standard, and a request for information from interested persons on the issues involved.

In response to the notice, more than 50 written comments were received, providing valuable additional information, data, and materials concerning carcinogens.

On the basis of all the relevant information before us, it is hereby found that: (1) The 14 carcinogens listed in the emergency temporary standard are toxic and physically harmful; (2) that exposure to any of the 14 substances poses a grave danger to employees; (3) that employees are presently being exposed to the substances; and (4) that the emergency temporary standard set forth below is necessary to protect the employees from such exposure.

Pursuant to section 6(c) of the act, a proceeding will commence shortly in accordance with section 6(b) of the act, in which the emergency temporary standard will serve as a proposed rule, together with other subsidiary rules. As soon as possible, a draft environmental impact statement will be filed with the Council on Environmental Quality, and copies will be sent to other appropriate Federal agencies for their comments. In addition, a copy of the proposed rules to be noticed under section 6(b) will be sent to the Environmental Protection Agency for its comments under section 309 of the Clean Air Act.

Part 1910 is amended by adding a new § 1910.93c to read as follows:

§ 1910.93c Carcinogens.

(a) *Scope and application.*—This section applies to any activity in which a carcinogen is manufactured, processed, used, repackaged, released, handled, or otherwise present in any manner.

(b) *Definitions.*— (1) "Carcinogen" means any of the substances listed below, or compositions containing such substances, but does not include compositions containing less than 1 percent by weight of the listed carcinogens:

Compound No.	Chemicals	Chemical abstracts registry No.
1	2-Acetylaminofluorene	53963
2	4-Aminodiphenyl	92671
3	Benzidine (and its salts)	92875
4	3,3'-Dichlorobenzidine (and its salts)	91941
5	4-Dimethylaminoazobenzene	60117
6	alpha-Naphthylamine	134327
7	beta-Naphthylamine	91598
8	4-Nitrobiphenyl	92933
9	N-Nitrosodimethylamine	62759
10	beta-Propiolactone	57578
11	bis-Chloromethyl ether	542881
12	Methyl Chloromethyl ether	107302
13	4,4'-Methylene(bis)-2-chloroaniline.	101144
14	Ethyleneimine	151564

(2) "Controlled area" means an area to which access is restricted and controlled by the employer.

(3) "Decontamination" means the removal or chemical neutralization of a carcinogen to a form that is either nontoxic or not capable of easy absorption into the body.

(4) "Present" includes manufactured, processed, used, repackaged, released, handled, or otherwise present.

(c) (1) *Controlled areas.*—(i) Any area in which any carcinogen is present shall be deemed a controlled area.

(ii) An area shall not be deemed a controlled area if the presence of a carcinogen results only from a transshipment in sealed packages.

(2) *Open-process vessels and open containers.*—Open-process vessels and open containers of a carcinogen shall be permitted only at container filling points and at points where contents of containers are charged into process vessels, and only to the extent necessary to permit transfer of contents. Such transfers shall be under continuous local exhaust ventilation which shall prevent the dispersion of the carcinogen into any work area. The transfer facilities shall have provision to confine any spills to the area served by the ventilation system.

(3) *Toilet facilities and drinking fountains.*—No toilet facilities and no drinking fountains shall be used inside a controlled area.

(4) *Food and beverage.*—No food or beverage shall be permitted within a controlled area.

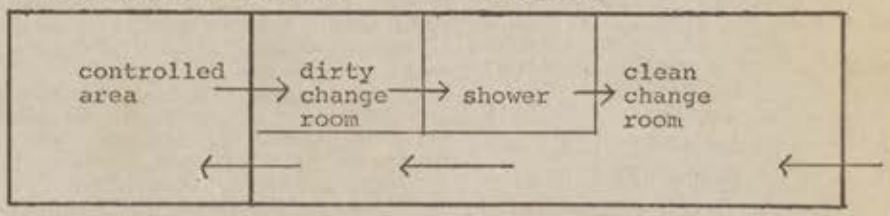
(5) *Smoking.*—No smoking or smoking materials shall be allowed within a controlled area.

(d) (1) *Access to controlled areas.*—Except as provided in subparagraph (2) of this paragraph, any controlled area may be connected with an uncontrolled area only by means of change rooms and shower rooms so arranged that an employee, in order to enter or leave the controlled area, must go through the following procedures:

(i) In order to enter, an employee must undress completely in a clean change room outside the controlled area, and put on clean protective clothing and equipment; he may enter the controlled area through an entrance designed to prevent the escape of carcinogens from the controlled area to the change room;

(ii) In order to leave a controlled area, an employee must enter a separate dirty change room where he must undress completely and leave every item of clothing and equipment, then he must shower in an adjacent room which he may enter through an entrance designed to prevent the escape of carcinogens from the dirty change room to the shower room. Thereafter, he must enter the clean change room where his street clothes are in his locker.

(iii) A physical layout which would conform to this subparagraph is illustrated below:



(2) A controlled area may also be connected with an uncontrolled area by means of emergency exits which may only be used in case of emergency, such as fire.

(3) Appropriate instructions and signs shall be posted to inform employees of the procedures that must be followed in entering and leaving a controlled area.

(4) The clean change room shall have

individual storage facilities for storage of street clothes and clean protective clothing and equipment.

(5) (i) Shower rooms shall be provided in accordance with § 1910.141.

(ii) Shower supplies may be introduced into a shower room only through a noncontaminated area, such as a clean change room.

(6) The employer shall provide all protective clothing, equipment and shower supplies including towels.

(e) (1) *Operations of known exposure.*—(i) This subparagraph applies to any operation where there is a direct exposure of an employee to a carcinogen, including, but not limited to: (A) An opening for any purpose of equipment which contains, or has contained, a carcinogen; (B) any cleanup of leaks or spills of a carcinogen; (C) any decontaminating of equipment, surfaces, or clothing which are known, or which should be reasonably expected to be known, to be contaminated with a carcinogen; (D) the performing of any work which results in the release of a carcinogen; (E) any work in any area containing open equipment which contins a carcinogen, or which has contained a carcinogen and has not been decontaminated; or (F) any work on any area known, or reasonably expected to be known, to be contaminated with a carcinogen.

(ii) Every employee engaged in any operation described in subdivision (i) of this subparagraph shall: (A) Be provided with a clean full impervious pressurized air-supplied suit; (B) be required to put on the suit before entering an affected area and engaging in an affected operation; (C) be required to wear the suit in such an area and during the operation; and (D) be decontaminated before leaving the areas and before removing the suit.

(iii) Every area which is known, or which should be reasonably expected to be known, to be contaminated with a carcinogen, including every area where work described in subdivision (i) of this subparagraph is to be done, shall be posted with legible danger signs bearing the legend:

CANCER-PRODUCING AGENT
EXPOSED IN THIS AREA

FULL IMPERVIOUS PRESSURIZED AIR-SUPPLIED SUIT REQUIRED AT ALL TIMES

AUTHORIZED PERSONNEL ONLY

(iv) Contaminated equipment, material, and clothing shall not be removed from a controlled area, unless it is either decontaminated or sealed in impervious containers bearing the legend:

DANGER

Contaminated with

CANCER—PRODUCING AGENT

(2) *Decontamination.*—Decontamination processes shall be established and implemented to remove carcinogens on surfaces of equipment, materials, and the decontamination facility.

(3) *Waste disposal.*—Waste disposal methods and processes shall be established and implemented which do not permit carcinogens to be introduced into noncontrolled areas.

(4) *Posting.*—Controlled areas shall be posted at all entrances with legible danger signs bearing the legend:

CANCER-PRODUCING AGENT

in this area

AUTHORIZED PERSONNEL ONLY

(5) *Medical surveillance programs.*—Each employer subject to this section shall report in writing to the Occupational Safety and Health Administration, Office of Standards, room 504, 400 First Street NW., Washington, D.C. 20210, information as to any kind of medical surveillance program that has been voluntarily instituted, or will be voluntarily instituted by the employer.

(6) *Monitoring.*—All employers subject to this section shall report in writing to the same office information as to the type of monitoring system that has been instituted.

(7) *Ventilation.*—Every controlled area shall be under constant mechanical ventilation and negative air pressure with respect to the surrounding areas, including change rooms. Air withdrawn from a controlled area shall be decontaminated before being released into any area where employees may enter.

(8) *Cleanup.*—(i) Controlled areas shall be cleaned thoroughly not less than once each working day.

(ii) Employees shall be provided, and shall be required to wear, impervious protective equipment, including trousers, jacket, headgear, boots, and gloves. Employees shall be required to wash down carefully before removing protective equipment.

(9) *Employee identification.*—Each employer shall establish and maintain a list of employees entering a controlled area. The list shall be made available on request to authorized representatives of the Secretary of Labor.

(10) *Reporting.*—Every employer subject to this section shall report in writing to the Occupational Safety and Health Administration, Office of Standards, the following information:

(i) The address of each of his controlled areas;

(ii) The name and other identifying information as to the particular carcinogens present in each of his controlled areas;

(iii) The approximate number of employees entering each of his controlled areas during a representative week of normal operations in the controlled area; and

(iv) The manner in which the carcinogens are present in each of his controlled areas, e.g., whether a carcinogen is manufactured, processed, used, repackaged, released, or otherwise handled.

(f) *Effective dates.*—This section shall become effective on May 18, 1973, except the following provisions which shall become effective on the respective dates specified in the following subparagraphs:

(1) Paragraph (c) (2) shall become effective on June 4, 1973.

(2) Paragraph (d) shall become effective on June 4, 1973.

(3) Paragraph (e) (5) shall become effective on July 3, 1973.

(4) Paragraph (e) (6) shall become effective on July 3, 1973.

(5) Paragraph (e) (7) shall become effective on August 2, 1973.

(6) Paragraph (e) (10) shall become effective on July 3, 1973.

(Sec. 6, Public Law 91-596, 84 Stat. 1593 (29 U.S.C. 655). Secretary's Order No. 12-71 (36 FR 8754).)

Signed at Washington, D.C., this 26th day of April 1973.

JOHN H. STENDER,
Assistant Secretary of Labor.

[FR Doc.73-8543 Filed 5-2-73;8:45 am]

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Sanitation

On July 15, 1972, a notice of proposed rulemaking was published in the FEDERAL REGISTER (37 FR 13996) concerning a proposed revision of the sanitation standards (29 CFR 1910.141). The notice invited interested persons to submit written data, views, and arguments concerning the proposed changes and to request an informal hearing if desired.

Upon receipt of numerous comments and requests for a hearing, a notice of informal hearing was published in the FEDERAL REGISTER on September 30, 1972 (37 FR 70571), for the purpose of hearing presentations on any and all provisions of the proposed standard, with the exception of § 1910.141(f) (concerning retiring rooms for women), which had previously been scheduled for a separate hearing, and the subject of the height of toilet partitions, which also was subject to a separate proceeding.

An informal legislative hearing was held on November 8, 9, and 10, 1972, before Administrative Judge Salvatore J. Arrigo, for the purpose of receiving oral data, views, and arguments concerning the proposed regulations. The certified record includes the prehearing written comments, the transcript of the oral presentations made at the hearing, exhibits received during the course of the hearing, and exhibits received within the time period allowed after the close of the hearing for submission of further comments.

Comments were received on almost every aspect of the proposal. All comments have been carefully examined and considered.

1. Several of the proposed definitions have been revised in light of comments received. The defintion of the term "lavatory" has been made more specific in response to a comment which pointed out that otherwise janitor's basin, bathtubs, etc., might have been considered lavatories under the proposal.

The definition of the term "potable water" has been extended to include water approved for drinking purposes by a State or local authority having jurisdiction.

Definitions of the terms "number of employees" and "wet processes" have been added in order to facilitate the application of the paragraphs where the terms are used.

2. Paragraph (a)(4) of the proposal purported to regulate expectorating in workplaces. On the basis of several comments received in opposition to this proposed subparagraph, any reference to expectorating has been removed from the final standard. The general requirement under paragraph (a)(3)(i), Housekeeping, requiring clean places of employment, is sufficient to cover any problems arising from expectoration.

3. The proposed waste disposal standard would have required tight-fitting covers on waste receptacles. Several comments pointed out that the provision would restrict unnecessarily the design of waste receptacles, and that there are many operations where sanitary conditions can be maintained, but where tight-fitting covers would make operations impractible. The adopted standard takes these comments into consideration, and does not require a tight-fitting cover if sanitary conditions can be maintained without one. The proposal also required such receptacles to be leakproof. The adopted standard recognizes that other receptacles can be used where a process so requires, as long as sanitary conditions can be maintained.

4. Proposed paragraph (a)(6), Vermin Control, would have required workplaces and personal service rooms to be constructed, equipped, and maintained so as to prevent entrance or harborage of rodents, insects, and other vermin. The proposal would also require institution and documentation of an extermination program where vermin were detected. Many comments asserted that it is impossible to make a workplace completely verminproof. The comments favored the text of the existing § 1910.141(a)(4) which requires verminproofing "so far as reasonably practicable." This text seems to be more realistic than the proposal and is accordingly incorporated in the final standard.

Comments were also received objecting to the recordkeeping requirements of paragraph (a)(6) as being too burdensome to employers, and unnecessary for the maintenance of an adequate vermin control program. It is decided that documentation of vermin control programs is not necessary to assure that a particular program is effective, and reference to such documentation is therefore deleted from the adopted standard.

5. Several comments were received on the proposals that drinking water be made available within 200 feet of any place where employees regularly work, and that toilet facilities be within 200 feet from where employees regularly work. Some comments stated that the distance an employee had to walk to a toilet or drinking facility was not related to occupational safety and health, and that the location of such facilities was merely a matter of convenience. Other comments suggested that the cost of compliance with this proposal would result in severe economic hardship, in many cases with little or no benefit to employees. Other comments suggested figures other than 200 feet, ranging as high as 600 feet. Others suggested that the existing standard, which used the 200 feet as a guide rather than a requirement, should be retained. Other criticisms of the proposal were also offered, but the basic criticism running through all the relevant comments on the 200-foot requirement was to the effect that this distance was arbitrary. As a result of the comments, no fixed distance is prescribed concerning the proximity of toilet and drinking facilities located in the establishment to the locus of the workplace.

6. The uses of potable and nonpotable water were a source of many comments. The questions of whether nonpotable water could be used for washing any part of the person, as stated in the proposed revision, was the subject of much argument. There, the issue is whether some treated water which is not fit for drinking may be suitable for washing. Medical testimony was presented to the effect that water used in showering is inevitably ingested into the body, and that showering in nonpotable water had led to a great many dermatological and other medical problems. Other testimony was to the effect that properly treated nonpotable water was safe for bathing and washing, so long as precautions were in effect to insure that the bather did not drink the water. Some testimony was presented concerning different grades of water, and that some States had strict standards concerning the chemical and bacteriological regulating of water which was deemed suitable for washing, but not for drinking. There was also evidence indicating that a substantial number of employees are supplied with water subject only to minimal treatment, even when the water comes from heavily polluted sources.

It is not clear whether nonpotable water is safe for washing the body. The problem is made even more difficult because of the highly varied quality of nonpotable water systems. This uncertainty suggests that the basic protection afforded by the existing standard, requiring the use of potable water for washing, must be retained.

7. Comments were received with respect to the posting provisions proposed in paragraphs (b)(2) (i) and (iv). Several comments pointed out an apparent conflict between the two provisions in that the former required the posting to indicate for what purposes nonpotable water could not be used, while the latter required the posting to clearly indicate the specific uses of the nonpotable water. Other comments indicated that the posting requirements were excessively burdensome and expensive. Still other comments argued that other methods besides posting, such as color-coding, should be allowed as a means of advising employees that the water is not suitable for certain purposes.

It is important that there be some means of warning employees that certain water outlets have restricted use. The adopted standard thus retains the requirement for posting, but also allows alternative means of marking the outlets. The conflict which was pointed out as existing in the proposed standards has been resolved by requiring the posting to indicate clearly the purposes for which such water is not to be used.

8. The proposed paragraph (b)(2)(ii) would forbid the existence of any cross-connection, open or potential, between any system carrying potable water and any system carrying nonpotable water. Proposed paragraph (b)(2)(iii) appeared to allow cross-connections, providing that backflow of nonpotable water into a potable water system was prevented. Several comments were addressed to this possible conflict, some of which advocated the deletion of the paragraph forbidding cross-connections. At the hearing, substantial testimony was presented on the subject of cross-connections, to the effect that where effective backflow preventive devices are in use, the danger paragraph (b)(2)(ii) addressed itself to would become obviated. Evidence was also introduced indicating a need for cross-connections in certain instances throughout industry. These comments have merit, and accordingly it is decided that the proposed prohibition of all cross-connections should not be a part of the adopted standard. The final rule simply states that potable and nonpotable systems must be constructed so that backflow and backsiphonage will be prevented.

9. Proposed § 1910.141(c), Toilet facilities, dealt with the construction, location, and number of toilet facilities within a workplace. Many comments were addressed to proposed table J-1, which related the number of employees at a workplace with minimum numbers of toilet facilities. Several comments suggested that no specific numbers should be used with reference to number of toilet facilities required, and that the standard should require only "adequate" or "sufficient" toilet facilities. Others suggested different numbers than those in the proposed table, and submitted into evidence and testified on the efficacy of several State and organizational plumbing codes. Upon consideration of all these comments and submissions, table J-1 is made less restrictive with respect to water closets.

Similar commentary was received concerning the requirement in the proposal that there be at least one lavatory in the toilet room or immediately adjacent thereto for every required toilet facility. The evidence has been convincing that this requirement exceeds realistic bounds, and it is decided that one lavatory need be provided for every three required toilet facilities.

10. The proposal would eliminate any reference to separate facilities based on sex. Many comments were received on this issue. The gist is that the standard should require separate toilet facilities for each sex, with specified exceptions. The comments pointed out that where men and women shared toilet rooms with multiple facilities, there could be serious

physiological and psychological problems and that there might be reluctance to use the facilities at all. It should be pointed out that the proposal was not intended to prohibit separate rooms for each sex, or to make mandatory the use by both sexes of toilet rooms with multiple toilet facilities. In any case, testimony has been convincing that the existing standard's requirement for separate toilet rooms for each sex should be retained. Such separate rooms will, however, no longer be required where the minimum required number of toilet facilities are in the form of single-occupancy toilet rooms, which can be locked from the inside, and which contain at least one water closet.

11. Proposed paragraph (c)(2)(ii) would require that floors and sidewalls in toilet rooms be of watertight construction to a height of at least 6 inches. One commentator pointed out that most cove tiles used in toilet rooms are "nominally" 6 inches in height, but are actually a fraction of an inch shorter than 6 inches. The commentator pointed out that the final standard should not proscribe the use of such tiles. The comment has merit, and it is therefore decided that watertight construction need be only to a height of 5 inches.

12. Proposed § 1910.141(d)(2)(i) would have required lavatories to be provided in accordance with proposed table J–1. As with toilet facilities, many comments took issue with the numbers used in the proposed table. Several commentators pointed out that while the proposal was suitable for factory and industrial workplaces, it was too restrictive with respect to office buildings and similar establishments, where there is less of a need for washing facilities. These comments have merit, and the minimum lavatory requirements are changed accordingly.

It should be noted that the minimum lavatory requirements are set out in a separate table J–2, rather than in table J–1 with the toilet requirements, as set forth in the proposal.

13. Proposed paragraph (d)(2)(ii) would have required that all lavatories be supplied with hot and cold water. Several comments suggested that hot water in lavatories is not a health necessity when adequate cold water cleansing agents are provided. However, cold water can become uncomfortable to a point where employees may be discouraged from washing their hands and thus possibly endanger their health and that of others. Other comments suggested that tepid water would be adequate in meeting the health needs of employees. Provision for tepid water seems adequate to meet the lavatory requirements. Cold water alone is considered inadequate.

14. Proposed § 1910.141(d)(3), Showers, was the subject of considerable comment and testimony. The item of most concern was the requirement that employees who use showers be provided with individual towels. Some stated that the issue of who is to supply the towel is a matter for collective bargaining. Others stressed the difficulty and inconvenience involved if the employee had to bring a clean towel to work every day, and the problems with mildew and theft, where towels are left overnight. It is decided that when an employee is required by his work to be subject to such contamination that he is required to take a shower, it is up to the employer to insure that the employee has the facilities and associated supplies to remove that contamination. Thus, towels must be provided to the employee.

The issues discussed above are believed to be the major issues raised in this rulemaking procedure. There were other issues presented, the disposition of which and the reasons therefor should be apparent from the adopted standard.

Accordingly, after consideration of all materials presented and pursuant to sections 6(b) and 8(g) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 657), Secretary of Labor's Order No. 12–71 (36 FR 8754), and 29 CFR 1911.5, 29 CFR 1910.141 is hereby revised, effective June 4, 1973, to read as follows:

§ 1910.141 Sanitation.

(a) *General.*—(1) *Scope.*—This section applies to permanent places of employment.

(2) *Definitions applicable to this section.*—(i) "Lavatory" means a basin or similar vessel used exclusively for washing of the hands, arms, faces, and head.

(ii) "Nonwater carriage toilet facility," means a toilet facility not connected to a sewer.

(iii) "Number of employees" means, unless otherwise specified, the maximum number of employees present at any one time on a regular shift.

(iv) "Personal service room," means a room used for activities not directly connected with the production or service function performed by the establishment. Such activities include, but are not limited to, first-aid, medical services, dressing, showering, toilet use, washing, and eating.

(v) "Potable water" means water which meets the quality standards prescribed in the U.S. Public Health Service Drinking Water Standards, published in 42 CFR part 72, or water which is approved for drinking purposes by the State or local authority having jurisdiction.

(vi) "Toilet facility," means a fixture maintained within a toilet room for the purpose of defecation or urination, or both.

(vii) "Toilet room," means a room maintained within or on the premises of any place of employment, containing toilet facilities for use by employees.

(viii) "Toxic material" means a material in concentration or amount which exceeds the applicable limit established by a standard, such as §§ 1910.93 and 1910.93a or, in the absence of an applicable standard, which is of such toxicity so as to constitute a recognized hazard that is causing or is likely to cause death or serious physical harm.

(ix) "Urinal" means a toilet facility maintained within a toilet room for the sole purpose of urination.

(x) "Water closet" means a toilet facility maintained within a toilet room for the purpose of both defecation and urination and which is flushed with water.

(xi) "Wet process" means any process or operation in a workroom which normally results in surfaces upon which employees may walk or stand becoming wet.

(3) *Housekeeping.*—(i) All places of employment shall be kept clean to the extent that the nature of the work allows.

(ii) The floor of every workroom shall be maintained, so far as practicable, in a dry condition. Where wet processes are used, drainage shall be maintained and false floors, platforms, mats, or other dry standing places shall be provided, where practicable, or appropriate waterproof footgear shall be provided.

(iii) To facilitate cleaning, every floor, working place, and passageway shall be kept free from protruding nails, splinters, loose boards, and unnecessary holes and openings.

(4) *Waste disposal.*—(i) Any receptacle used for putrescible solid or liquid waste or refuse shall be so constructed that it does not leak and may be thoroughly cleaned and maintained in a sanitary condition. Such a receptacle shall be equipped with a solid tight-fitting cover, unless it can be maintained in a sanitary condition without a cover. This requirement does not prohibit the use of receptacles which are designed to permit the maintenance of a sanitary condition without regard to the aforementioned requirements.

(ii) All sweepings, solid or liquid wastes, refuse, and garbage shall be removed in such a manner as to avoid creating a menace to health and as often as necessary or appropriate to maintain the place of employment in a sanitary condition.

(5) *Vermin control.*—Every enclosed workplace shall be so constructed, equipped, and maintained, so far as reasonably practicable, as to prevent the entrance or harborage of rodents, insects, and other vermin. A continuing and effective extermination program shall be instituted where their presence is detected.

(b) *Water supply.*—(1) *Potable water.*—(i) Potable water shall be provided in all places of employment, for drinking, washing of the person, cooking, washing of foods, washing of cooking or eating utensils, washing of food preparation or processing premises, and personal service rooms.

(ii) Drinking fountain surfaces which become wet during fountain operation shall be constructed of materials impervious to water and not subject to oxidation. The nozzle of the fountain shall be at an angle and so located to prevent the return of water in the jet or bowl to the nozzle orifice. A guard shall be provided over the nozzle to prevent contact with the nozzle by the mouth or nose of persons using the drinking fountain. The drain from the bowl of the fountain shall not have a direct physical connection with a waste pipe, unless it is trapped.

(iii) Portable drinking water dispensers shall be designed, constructed,

and serviced so that sanitary conditions are maintained, shall be capable of being closed, and shall be equipped with a tap.

(iv) Ice in contact with drinking water shall be made of potable water and maintained in a sanitary condition.

(v) Open containers such as barrels, pails, or tanks for drinking water from which the water must be dipped or poured, whether or not they are fitted with a cover, are prohibited.

(vi) A common drinking cup and other common utensils are prohibited.

(vii) Where single service cups (to be used but once) are supplied, both a sanitary container for the unused cups and a receptacle for disposing of the used cups shall be provided.

(2) *Notpotable water.*—(i) Outlets for nonpotable water, such as water for industrial or firefighting purposes, shall be posted or otherwise marked in a manner that will indicate clearly that the water is unsafe and is not to be used for drinking, washing of the person, cooking, washing of food, washing of cooking or eating utensils, washing of food preparation or processing premises, or personal service rooms, or for washing clothes.

(ii) Construction of nonpotable water systems or systems carrying any other nonpotable substance shall be such as to prevent backflow or backsiphonage into a potable water system.

(iii) Nonpotable water shall not be used for washing any portion of the person, cooking or eating utensils, or clothing. Nonpotable water may be used for cleaning work premises, other than food processing and preparation premises and personal service rooms: *Provided*, That this nonpotable water does not contain concentrations of chemicals, fecal coliform, or other substances which could create insanitary conditions or be harmful to employees.

(c) *Toilet facilities.*—(1) *General.*—(i) Except as otherwise indicated in this subdivision (i), toilet facilities, in toilet rooms separate for each sex, shall be provided in all places of employment in accordance with table J–1 of this section. The number of facilities to be provided for each sex shall be based on the number of employees of that sex for whom the facilities are furnished. Where toilet rooms will be occupied by no more than one person at a time, can be locked from the inside, and contain at least one water closet, separate toilet rooms for each sex need not be provided. Where such single-occupancy rooms have more than one toilet facility, only one such facility in each toilet room shall be counted for the purpose of table J–1.

TABLES J–1

Number of employees:	*Minimum number of water closets* [1]
1 to 15	1.
16 to 35	2.
36 to 55	3.
56 to 80	4.
81 to 110	5.
111 to 150	6.
Over 150	1 additional fixture for each additional 40 employees.

[1] Where toilet facilities will not be used by women, urinals may be provided instead of water closets, except that the number of water closets in such cases shall not be reduced to less than ⅔ of the minimum specified.

(ii) The requirements of subdivision (i) of this subparagraph do not apply to mobile crews or to normally unattended work locations so long as employees working at these locations have transportation immediately available to nearby toilet facilities which meet the other requirements of this subparagraph.

(iii) The sewage disposal method shall not endanger the health of employees.

(iv) When persons other than employees are permitted the use of toilet facilities on the premise, the number of such facilities shall be appropriately increased in accordance with table J–1 of this section in determining the minimum number of toilet facilities required.

(v) Toilet paper with holder shall be provided for every water closet.

(vi) Covered receptacles shall be kept in all toilet rooms used by women.

(vii) For each three required toilet facilities at least one lavatory shall be located either in the toilet room or adjacent thereto. Where only one or two toilet facilities are provided at least one lavatory so located shall be provided.

(2) *Construction of toilet rooms.*—(i) Each water closet shall occupy a separate compartment with a door and walls or partitions between fixtures sufficiently high to assure privacy.

(ii) In all toilet rooms installed on or after August 31, 1971, the floor and sidewalls, including the angle formed by the floor and sidewalls, and excluding doorways and entrances, shall be watertight. The sidewalls shall be watertight to a height of at least 5 inches.

(iii) The floors, walls, ceilings, partitions, and doors of all toilet rooms shall be of a finish that can be easily cleaned. In installations made on or after August 31, 1971, cove bases shall be provided to facilitate cleaning.

(3) *Construction and installation of toilet facilities.* (i) Every water carriage toilet facility shall be set entirely free and open from all enclosing structures and shall be so installed that the space around the facility can be easily cleaned. This provision does not prohibit the use of wall-hung-type water closets or urinals.

(ii) Every water closet shall have a hinged seat made of substantial material having a nonabsorbent finish. Seats installed or replaced after June 4, 1973, shall be of the open-front type.

(iii) Nonwater carriage toilet facilities and disposal systems shall be in accordance with § 1910.143.

(d) *Washing facilities.*—(1) *General.*—Washing facilities shall be maintained in a sanitary condition.

(2) *Lavatories.*—(i) Lavatories shall be made available in all places of employment in accordance with the requirements for lavatories as set forth in table J–2 of this section. In a multiple-use lavatory, 24 lineal inches of wash sink or 20 inches of a circular basin, when provided with water outlets for each space, shall be considered equivalent to one lavatory. The requirements of this subdivision do not apply to mobile crews or to normally unattended work locations if employees working at these locations have transportation readily available to nearby washing facilities which meet the other requirements of this paragraph.

TABLE J–2

Type of employment	Number of employees	Minimum number of lavatories
Nonindustrial—office buildings, public buildings, and similar establishments.	1–15	1.
	16–35	2.
	36–60	3.
	61–90	4.
	91–125	5.
	Over 125	1 additional fixture for each additional 45 employees.
Industrial—factories, warehouses, loft buildings, and similar establishments.	1–100	1 fixture for each 10 employees.
	Over 100	1 fixture for each additional 15 employees.

(ii) Each lavatory shall be provided with hot and cold running water, or tepid running water.

(iii) Hand soap or similar cleansing agents shall be provided.

(iv) Individual hand towels or sections thereof, of cloth or paper, warm air blowers or clean individual sections of continuous cloth toweling, convenient to the lavatories, shall be provided.

(v) Receptacles shall be provided for disposal of used towels.

(vi) Warm air blowers shall provide air at not less than 90° F. and shall have means to automatically prevent the discharge of air exceeding 140° F.

(vii) Electrical components of warm air blowers shall meet the requirements of subpart S of this part.

(3) *Showers.*—(i) Whenever showers are required by a particular standard, the showers shall be provided in accordance with subdivisions (ii) through (v) of this subparagraph.

(ii) One shower shall be provided for each 10 employees of each sex, or numerical fraction thereof, who are required to shower during the same shift.

(iii) Body soap or other appropriate cleansing agents convenient to the showers shall be provided as specified in paragraph (d) (2) (iii) of this section.

(iv) Showers shall be provided with hot and cold water feeding a common discharge line.

(v) Employees who use showers shall be provided with individual clean towels.

(e) *Change rooms.*—Whenever employees are required by a particular

standard to wear protective clothing because of the possibility of contamination with toxic materials, change rooms equipped with storage facilities for street clothes and separate storage facilities for the protective clothing shall be provided.

(f) *Clothes drying facilities.*—Where working clothes are provided by the employer and become wet or are washed between shifts, provision shall be made to insure that such clothing, is dry before reuse.

(g) *Consumption of food and beverages on the premises.*—(1) *Application.*—This paragraph shall apply only where employees are permitted to consume food or beverages, or both, on the premises.

(2) *Eating and drinking areas.*—No employee shall be allowed to consume food or beverages in a toilet room nor in any area exposed to a toxic material.

(3) *Waste disposal containers.*—Receptacles constructed of smooth, corrosion resistant, easily cleanable, or disposable materials, shall be provided and used for the disposal of waste food. The number, size, and location of such receptacles shall encourage their use and not result in overfilling. They shall be emptied not less frequently than once each working day, unless unused, and shall be maintained in a clean and sanitary condition. Receptacles shall be provided with a solid tight-fitting cover unless sanitary conditions can be maintained without use of a cover.

(4) *Sanitary storage.*—No food or beverages shall be stored in toilet rooms or in an area exposed to a toxic material.

(h) *Food handling.*—All employee food service facilities and operations shall be carried out in accordance with sound hygienic principles. In all places of employment where all or part of the food service is provided, the food dispensed shall be wholesome, free from spoilage, and shall be processed, prepared, handled, and stored in such a manner as to be protected against contamination.

(Sec. 6, 84 Stat. 1593; 29 U.S.C. 655; 29 CFR 1910.4.)

Signed at Washington, D.C., this 26th day of April 1973.

JOHN H. STENDER,
Assistant Secretary of Labor.

[FR Doc.73-8544 Filed 5-2-73;8:45 am]

Title 32—National Defense

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

SUBCHAPTER A—ADMINISTRATION

PART 809—ISSUE AND CONTROL OF IDENTIFICATION (ID) CARDS

Miscellaneous Amendments

This change restores commissary, exchange, and theater privileges to widows who remarried and subsequently became unmarried through divorce or death of the spouse; provides definition of the term "ward"; grants exchange, commissary, and theater privileges to Medal of Honor recipients and their eligible dependents; extends exchange privileges to U.S. citizen employees outside the continental United States (CONUS) subject to Status of Forces Agreement (SOFA); excludes Alaska and Hawaii as part of CONUS for exchange service employees; expands privileges for foreign military members and dependents when in the United States under competent orders issued by one of the services of the Armed Forces; expands exchange privileges to dependents of foreign trainees (military assistance program (MAP)) dependents when in the United States; explains actions by verifying and issuing activities, supply and accountability of forms, confiscated and surrendered cards, receipts, and destruction certificates; explains where to return verified DD Forms 1172; includes an additional reference to entitlement to benefits and privileges and adds application procedures tables.

Part 809, subchapter A of chapter VII of title 32 of the Code of Federal Regulations is amended as follows:

Subpart A—[Amended]

1. Subpart A is amended as follows:

a. Section 809.4 is amended by revising paragraphs (b) and (f)(2), the note following paragraph (f)(5)(ii)(C), and by adding paragraphs (n) and (o) to read as follows:

§ 809.4 **Definitions.**

* * * * *

(b) *Uniformed services.*—The Armed Forces, the Commissioned Corps of the National Oceanic and Atmospheric Administration, and the Commissioned Corps of the Public Health Service.

* * * * *

(f) * * *

(2) The unmarried widow.

(i) For commissary, exchange, and theater, widow means a widow who has never remarried or a widow who has remarried but at time of application is unmarried due to the divorce from or death of the spouse.

(ii) For medical care, widow means a widow who has never remarried.

(5) * * *

(ii) * * *

(C) * * *

NOTE.—Courses of education offered by institutions listed in "Education Directory, Part 3, Higher Education" and/or "Accredited Higher Institutions" issued periodically by the Office of Education, Department of Health, Education, and Welfare, meet the criteria approved by the Secretary of Defense or Secretary of Health, Education, and Welfare. To determine approval of courses offered by a foreign institution, by an institution not listed in either of the above directives, or by an institution not approved by a State agency under title 38, United States Code, chapters 34 and 35, a statement may be obtained from the Office of Education, Department of Health, Education, and Welfare, Washington, D.C. 20202.

* * * * *

(n) *Medal of Honor (MH) recipient.*—Discharged or separated individual who has been awarded the Medal of Honor from any of the services of the U.S. Armed Forces including those awarded posthumously.

(o) *Ward.*—A child under the age of 21 whose care and physical custody has been entrusted to the military sponsor under a court decree.

b. Section 809.7 is amended by revising column E under items 2.c.(2) and 2.d.(2) from "(2)" to "(7)"; by revising items 11, 12, and 13; by revising column D under item 15.b. from "No" to "(21)"; by adding new items 17, 18, and 19; and by revising notes 3, 7, 20, and 21, and by adding a new note 26 to read as follows:

§ 809.7 **Chart of entitlement to benefits and privileges.**

* * * * *

2. * * *					
c. * * *					
(2) Over 21 years of age	(8)	(8)	(3)	(7)	(7).
* * *	*	*	*	*	*
d. * * *					
(2) Over 21 years of age	(19)	(19)	(3)	No	(7).
* * *	*	*	*	*	*
11. Civilian employed by or affiliated with USAF. (For purposes of this item only, CONUS means for: Exchange—the United States (excluding Alaska and Hawaii) and D.C.; Medical Care—the United States (excluding Alaska and Hawaii) and D.C.; Commissary and Theater—the 50 States and D.C.).					
a. USAF employee and dependents residing on military installation within CONUS.	No	No	(11)	(13)	Yes.
b. U.S. citizen employee of Department of Defense, including person paid from nonappropriated funds and his dependents stationed outside CONUS.	No	(10)	(12)	(18)	(12).
c. Uniformed and nonuniformed, full-time paid employee of American Red Cross assigned to duty with activity of armed forces:					
(1) CONUS	No	(10)	(24)	(1)	(16).
(2) Outside CONUS	No	(10)	(22)	(18)	Yes.
d. Civilian employee under private or Government contract with USAF and his dependents:					
(1) CONUS	No	No	No	(13)	(16).
(2) Outside CONUS	No	(10)	(12)	(18)	(18).
e. U.S. citizen employee of other U.S. Government department or agency and his dependents:					
(1) CONUS	No	No	(11)	(13)	(15).
(2) Outside CONUS	No	(10)	(12)	(18)	Yes.
f. Exchange service employee:					
(1) CONUS	No	No	(11)	(14)	No.
(2) Outside CONUS (U.S. citizen)	No	(10)	(12)	(14)	Yes.

12. Foreign military member of NATO in United States and his dependents in United States:	Yes	Yes	(26)	(20)	(20).
a. Lawful wife	Yes	Yes	(26)	(20)	(2).
b. Lawful husband	(1)	(1)	(26)	(20)	(2).
c. Unmarried legitimate children, including adopted and stepchildren:					
(1) Under 21 years of age	Yes	Yes	(3)	(20)	(2).
(2) Over 21 years of age	(4)	(4)	(3)	(20)	(2).
d. Parents	No	No	(3)	(20)	(2).
e. Parents-in-law	No	No	(3)	(20)	(2).
13. Foreign military member in United States other than NATO and his dependents in United States:	No	Yes	(26)	(20)	(20).
a. Lawful wife	No	(23)	(26)	(20)	(2).
b. Lawful husband	No	(23)	(26)	(20)	(2).
c. Unmarried legitimate children, including adopted and stepchildren:					
(1) Under 21 years of age	No	(23)	(3)	(20)	(2).
(2) Over 21 years of age	No	(23)	(3)	(20)	(2).
d. Parents	No	(23)	(3)	(20)	(2).
e. Parents-in-law	No	(23)	(3)	(20)	(2).
* * * * *					
15. * * *					
a. * * *					
b. Dependents	No	(10)	(3)	(21)	(15).
* * * * *					
17. Medal of Honor recipients:	No	No	Yes	Yes	Yes.
a. Lawful wife	No	No	Yes	Yes	Yes.
b. Unmarried legitimate children, including adopted and stepchildren:					
(1) Under 21 years of age	No	No	(3)	(1)	Yes.
(2) Over 21 years of age	No	No	(3)	(4)	(2).
c. Unmarried illegitimate children:					
(1) Under 21 years of age	No	No	(3)	No	Yes.
(2) Over 21 years of age	No	No	(3)	No	(2).
d. Parents	No	No	(3)	(1)	(2).
e. Parents-in-law	No	No	(3)	(1)	(2).
18. Surviving dependents of Medal of Honor recipients:					
a. Unmarried widow	No	No	Yes	Yes	Yes.
b. Unmarried legitimate children, including adopted and stepchildren:					
(1) Under 21 years of age	No	No	(3)	(7)	Yes.
(2) Over 21 years of age	No	No	(3)	(7)	(2).
c. Unmarried illegitimate children:					
(1) Under 21 years of age	No	No	(3)	No	Yes.
(2) Over 21 years of age	No	No	(3)	No	(2).
d. Parents	No	No	(3)	No	No.
e. Parents-in-law	No	No	(3)	No	No.
19. Widows who have lost their patron privileges through remarriage and who subsequently become unmarried through divorce or death of the spouse:	No	No	Yes	Yes	Yes.

* * * * *

3. If actually residing full time in sponsor's (same) household, designated his agent in writing in item 18, DD Form 1172, and making purchases in his behalf. (A sponsor's child residing in the household of a divorced spouse or other noneligible recipient who is not a sponsor may not be designated as an agent.) A parent, parent-in-law, stepparent, parent by adoption, or ward must be dependent upon the member for over half of his support and reside full time in the same household as the sponsor. Children who are 21 years of age or over and unmarried and who are dependent upon the sponsor for over half of their support and who reside full time in the same household as the sponsor and who are either legitimate or are adopted children, stepchildren, or wards and who are (a) incapable of self-support because of a mental or physical handicap or (b) have not passed their 23d birthday and are enrolled in a full-time course of study at an approved institute of higher learning. (See Part 823 of this chapter for designation of other types of agents.)

* * * * *

7. Adopted children and stepchildren under age 21 must be more than 50 percent dependent upon the widow. Children over age 21 must be more than 50 percent dependent upon the widow and physically incapable of self-support. Children under age 23 and over age 21 who are not physically incapable of self-support must be more than 50 percent dependent upon the widow and enrolled full time in a course of study in an accredited educational institute above high school level. Unmarried, legitimate children under age 21 are not subject to dependency requirements.

* * * * *

20. Officers and enlisted men of the armed forces of foreign nations, when on duty with the U.S. Armed Forces under competent orders issued by the Army, Navy, Air Force, or Marine Corps, and their dependents, as defined in AFR 147–14, are authorized unlimited exchange privileges and are also authorized theater privileges. Purchases of items of the uniform are limited by the provisions of AFM 50–29. When visiting U.S. installation, officers and enlisted men of the armed forces of foreign nations are authorized unlimited exchange privileges, except that merchandise sold to them is restricted to quantities required for their personal use, and the sale of items of the uniform is governed by AFM 50–29 and AFR 147–14.

21. Foreign military personnel and their dependents will be granted the privileges indicated in note 20. Civilian employees of foreign governments on duty under competent orders, and residing within the limits of a U.S. installation, for the convenience of the U.S. Government will be granted limited exchange privileges upon determination by the responsible commander that comparable commercial facilities are not conveniently available and upon authorization by the secretary of the department concerned. See AFR 147–14. Dependents of civilian employees are not authorized exchange privileges.

* * * * *

26. Officers and enlisted men of the armed forces of foreign nations, when on duty with the U.S. Armed Forces under competent orders issued by the Air Force, Army, Navy, or Marine Corps, and their dependents as defined in part 823 of this chapter.

Subpart B [Amended]

2. Subpart B is amended as follows:

a. Section 809.10 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 809.10 Command responsibility.

* * * * *

(a) Designate and revoke vertify/issuing activities and individuals in writing. * * *

* * * * *

b. Sections 809.11, 809.12, and 809.13 are redesignated to 809.12, 809.14, and 809.17, respectively; new §§ 809.11, 809.13, 809.15, and 809.16 are added; and the note following the newly redesignated § 809.12 is revised to read as follows:

§ 809.11 Action by verifying activity.

The verifying official will:

(a) Forward DD Form 577, Signature Card, to the local issuing agency for each local individual authorized to verify AF Forms 279, Application for Identification Card, and DD Forms 1172.

(b) Upon receipt of a request for an ID card, furnish the appropriate application form. (Signature facsimilies are not authorized on DD Form 1172 and AF Form 279.) Differences of address between sponsor and dependents (except when member is in an area where dependents may not accompany) will be explained in item 18, DD Form 1172.

(c) Assist the applicant in the preparation of the form. For retired military personnel or surviving dependents, assistance will include obtaining copies of military records which the applicant cannot obtain.

(d) Upon receipt of a completed application form and supporting documents:

(1) Send all applications received under the cross-servicing arrangement to the nearest installation of the parent service. Refer former members, retired members, and surviving dependents of former members of the Army Air Corps who served before September 26, 1947, to the nearest Army installation for verification of application and issuance of DD Form 1173 in accordance with Army procedures. Presentation of an Air Force/Air Corps casualty report, discharge order, or retirement order is sufficient proof to establish and permit immediate verification by the Air Force without regard to the time element (era) involved. Origin of retired pay will also help determine parent service, for example, AFAFC, Denver, Colo. 80205, for Air Corps/Air Force and Finance Center, U.S. Army (FCUSA), Indianapolis, Ind. 46216, for Army.

(2) Determine the eligibility of the applicant for the ID card. Use the following supplemental guidelines, though not all inclusive, to ascertain elegibility and/or dependency. (The verifying official must assure that the applicant is a bona fide recipient and, if necessary, require applicant to present a birth certificate, driver's license, social security card, or other personal identification. For active duty personnel on temporary duty or en route to a new duty station, the verifying official, if in doubt concerning the individual's status, will contact the appropriate organization for verification.)

(i) *DD Form 2AF (Ret).*—The EL-series order is published by Air Reserve

Personnel Center (ARPC) to certify retired pay for persons retired under title 10, United States Code 1331.

(ii) *DD Form 2AF (Res).*—The EK-series order is published by ARPC to reassign Reservists to the retired Reserve section. This order does not certify retired pay.

(iii) *DD Form 1173.*—See § 809.71.

(A) *Wives and unmarried children or stepchildren under 21 years of age.*—If the wife and children listed on the application are the same as those listed in the sponsor's unit personnel record group, a DD Form 1173 may be issued to such dependents. If a discrepancy appears in the date of birth, request applicant to present child's birth certificate. (A birth certificate is required to identify children of retirees.)

(B) *Adopted children.*—Unless the unit personnel record group reveals that a decree of adoption has been cited, obtain a copy from the applicant. An interlocutory decree is sufficient, except in a jurisdiction in which an adoption is effective only from the date of entry of the final decree.

(C) *Unmarried children over age 21, but under age 23 attending school.*—Verify the institution of higher learning with the approved list (§ 809.6). For institutions not appearing in the various accrediting directories, but approved by a State agency under title 38, United States Code, chapters 34, 35, and 36, obtain from applicant a statement from the registrar of the institution to the effect that the institution is State approved.

(D) *Unmarried children over age 21 incapable of self-support, parents parents-in-law, and others cited under § 809.71 (notes a and b).*—To determine eligibility for dependents' medical care only, send DD Form 1171, indicating effective date claimed, to AFAFC/AJED, 3800 York Street, Denver, Colo. 80205. AFAFC will return DD Form 1172 to the originating organization, indicating eligibility or noneligibility with an effective date (if applicable). The sponsor will certify recipients of exchange, theater, and commissary privileges as dependents by marking the appropriate item(s) on the DD Form 1172.

(E) *Unremarried widows of reserve members (enumerated in title 10, United States Code 1475) who died in line of duty.*—Verify that the casualty was "in line of duty" by obtaining proof that the widow is receiving or entitled to receive dependency indemnity compensation.

(3) Determine the extent of benefits and privileges and enter information in section II, DD Form 1172.

(4) Determine the appropriate expiration date and enter the date in section II, DD Form 1172, or AF Form 279. Immediately after the last person from whom authorization is requested "Z" out remaining blocks in section II, DD Form 1172.

(5) Complete required certification and enter information in section IV, DD Form 1172, or section II, AF Form 279.

(6) Return documents presented in support of eligibility to the owner after they have served their purpose. Note disposition in the "Remarks" section of application.

(7) Return verified application and direct applicant to issuing activity.

(8) Replace ID cards by using the procedures for issuing original cards. However, a valid ID card and the service member's certification of facts may be accepted instead of the documentation required for issue of the previous card(s). Additional documentation is discretionary with the verifying activity.

(e) If eligibility cannot be established from local data, send DD Form 1172 with a statement giving full details and, if necessary, supporting documents, immediately to:

(1) AFMPC/DPMDRM, Randolph Air Force Base, Tex. 78148, for other than Air National Guard personnel.

(2) State Adjutant General or to NGB/DPM, Washington, D.C. 20310, for Air National Guard personnel.

§ 809.12 Action by Air Force Accounting and Finance Center (AFAFC).

* * * * *

NOTE.—A dependent parent, parent-in-law, or any other person for whom a current determination of dependency is not in effect must complete a questionnaire on residency and financial affairs which AFAFC sends to the person upon receipt of DD Form 1172. Dependency determination is based on the income, expense, and residency data the claimed dependent reports on these forms. This determination is valid until superseded, terminated, or voided by a change in the dependent's status. Subsequent applications may be verified without submission to AFAFC if a copy of the original AFAFC determination is present and the sponsor certifies in writing in item 18, DD Form 1172, that the dependency status previously established by AFAFC has not changed. Sponsor should be cautioned that such certification means that the dependent has not received an initial payment or an increase in social security payment, VA compensation, or other income; has not inherited or otherwise acquired anything of monetary value, including cash, stock, or real property, etc.; has not changed residence; has had no change in expense—household or personal; or has not had a change in marital status since dependency was last determined by AFAFC.

§ 809.13 Action by issuing activity.

(a) Upon receipt of an application, assure (1) that it has been verified by an official as indicated on the DD Form 577 provided by the local verifying activity (DD Forms 577 for verifying officials of other installations are not required) and (2) that the applicant is a bona fide recipient. (If necessary, require personal identification, such as driver's license, social security card, or other positive verification.)

(b) If doubt exists regarding an applicant's status (active duty personnel on temporary duty or en route permanent change of station, or dependent whose sponsor is serving at a location separate from the issuing activity, etc.), contact the appropriate verifying activity.

(c) Return to the verifying activity, for reaccomplishment, any DD Form 1172 that was verified more than 90 days before presentation. (Exception: At the discretion of the issuing official, information on the existing DD Form 1172 may be verified by telephone or message and a notation made in item 18.)

(d) If applicant reports in person: (1) Complete by typewriter all entries on the appropriate ID card. (Use codes and abbreviations if applicable.) Erasures and strikeovers are not permitted.

(2) Block out any preprinted privileges or facilities to which the card holder is not entitled. (DD Forms 1173 issued to former members or dependents of members of another uniformed service will show the expiration date and only those benefits and privileges that the parent service has verified. Air Force issuing activities will not change parent service entries on DD Forms 1172.) If applicable, overstamp "For Overseas Use Only" or "Valid at _____ AFB Only" on the face of the card. Overstamping to emphasize or highlight a situation/position is authorized.

(3) Attach a black and white passport-type photograph (1 by 1¼ inches), except for DD Form 528.

(4) Obtain the signature of the eligible recipient on the card and on the receipt (AF Form 279/DD Form 1172). The parent or legal guardian may sign in behalf of an incompetent recipient.

(5) Have issuing official sign the card. The use of facsimile signature stamps to authenticate ID cards is prohibited; however, the signature element itself may be stamped.

(6) Laminate all cards between two sheets of plastic.

(7) Complete section V, DD Form 1172, or section III, AF Form 279, to show that the card has been issued.

(8) Record the issuance of the card in the log (§ 809.15(b)(2)).

(9) Retain and file the receipted application forms as stated herein.

(10) Retrieve and destroy superseded ID card before issuing new card.

(e) For applicant who cannot report in person to place of issue, send applicant a partially processed ID card by certified mail. Do not send a blank card. Complete all entries except photograph, fingerprints, expiration date, and the signatures of the applicant and issuing officer. Before mailing card to the applicant, assure that "No Medical Care" is entered in the proper block when applicable. Include instructions for applicant to enter his signature in the proper block and to obtain fingerprints (if required) and an appropriate photograph. (Advise him that he may use available facilities in the local community to record his fingerprints and obtain a photograph without cost at almost any military installation, or he may get one at his own expense if it meets the requirements of paragraph (d)(3) of this section.) Upon receipt of ID card from applicant, add expiration date, photograph, and issuing officer's signature to the card and laminate it. Send the completed ID card by certified mail, return receipt requested, and note in log the method of delivery (§ 809.15(b)(2)).

§ 809.14 Retrieval, confiscation, and appeal procedures.

* * * * *

§ 809.15 Supply and accountability of forms.

Use certified mail for transmitting all accountable forms.

(a) *How to requisition forms.*—Requisition each prescribed form according to part 807 of this chapter.

(b) *Accountability of forms.*—DD Forms 2AF (Active), 2AF (Retired), 2AF (Reserve), 489, and 1173 are accountable forms. Each shipment of these forms will be physically inventoried, by serial number, upon receipt and the sender informed immediately of any discrepancies.

(1) *Storing forms.*—The issuing officer must provide adequate storage facilities to insure the security of blank forms. He will also establish controls to prevent the issuance of ID cards to unauthorized persons.

(2) *Log required.*—The disposition of each accountable ID card must be recorded on AF Form 335, Issuance Record—Accountability Identification Card. Maintain a separate AF Form 335 for each type of card; that is, DD Forms 2AF (Active), 2AF (Retired), 2AF (Reserve), 489, and 1173. The issuing officer will attach the AF Form 335 to related copies of AF Form 213, Receipt of Accountable Forms. AF Forms 213 and 335 will be disposed of in accordance with AFM 12–50.

(3) *Accounting for missing forms.*—The issuing officer will inventory the accountable forms:

(i) When he initially accepts them;

(ii) At least every 6 months thereafter; and

(iii) When he is relieved from duty as the issuing officer.

The inventory will include a physical count encompassing a verification of each serial number. If he cannot account for a form, he will investigate, file a report of the facts with his accountability records, and note the results of the investigation on the log (AF Form 335).

(4) *Accounting for damaged forms.*—The issuing officer may destroy forms unsuitable for issue and appropriately annotate his log.

§ 809.16 Destruction of confiscated and surrendered cards, receipts, and destruction certificates.

Confiscated and surrendered ID cards are destroyed unless an investigation determines that they should be returned to the person to whom they are issued; cards not returned are destroyed by the authority to whom they were surrendered. File or send AF Form 279 and DD Form 1172 (which receipt the issue of a new DD Form 2AF or 1173) as directed below and destroy the superseded AF Form 279 and DD Form 1172.

(a) If the authority making the destruction has custody of the receipts for the ID cards destroyed, he must also destroy the receipts (AF Form 279 or DD Form 1172). If a replacement card is issued, he will file AF Form 279 or DD Form 1172 to show that it was issued or send the receipt to the appropriate records custodian.

(b) If the destroying authority does not have custody of the receipts and the ID card is not immediately replaced, he will prepare AF Form 145, Certificate of Destruction of Material, and send it to the appropriate records custodian. Authentication by a witness is unnecessary. AF Form 145 invalidates the receipt for the destroyed card(s). When the custodian receives AF Form 145, he will destroy the receipt (AF Form 279 or DD Form 1172) for the card and AF Form 145, which destroys all evidence of its issue.

NOTE.—AF Form 145 is not used when DD Form 1172 evidencing issue of the destroyed card is filed at National Personnel Record Center (NPRC). In such instances, annotate item 18 of new DD Form 1172 to reflect circumstances of the destroyed/replaced card.

§ 809.17 Loss, theft, or destruction of ID cards.

* * * * *

Subpart C [Amended]

3. Subpart C is amended by redesignating §§ 809.23 to 809.24 and adding a new § 809.23 to read as follows:

§ 809.23 When green card is reissued.

DD Form 2AF (active) (green) will be reissued to:

(a) Show a change in grade (upon promotion to or demotion from any grade above airman first class).

(b) Show a change in expiration date.

NOTE.—In the case of extensions of enlistment, the new card will not be issued until the airman actually enters on the extension of enlistment.

(c) Replace a lost, stolen, or destroyed card.

(d) Correct an error.

(e) Replace a mutilated card.

(f) Change data that makes the old card questionable as a means of identification.

(g) DD Form 2AF (active) (green) may be issued in advance of normal reissue date if necessary to provide the recipient with a valid ID card during a holiday or other nonduty days that are in conflict with normal discharge/reenlistment schedules.

§ 809.24 Surrender of green card.

* * * * *

Subpart G [Amended]

4. Subpart G is amended as follows:

a. Section 809.62 is amended by adding a new paragraph (k) to read as follows:

§ 809.62 Persons entitled to USIP cards.

* * * * *

(k) Recipients of the Medal of Honor and their eligible dependents or surviving dependents.

b. Section 809.63 is redesignated to § 809.64; §§ 809.64 and 809.65 are deleted and new §§ 809.63 and 809.65 through 809.71 are added to read as follows:

§ 809.63 Where to return verified DD Form 1172.

(a) If recipient is a totally (100 percent) disabled veteran or an OSI special agent, return DD Form 1172 direct to him.

(b) If dependent(s) resides with the sponsor, return DD Form 1172 to the sponsor. The dependent(s) will then present the form to the designated base issuing activity for completion and delivery of DD Form(s) 1173.

(c) If dependents are not residing with the member, or a retired member and his dependents are not physically present, or surviving dependents of a deceased member are not physically present, mail DD Form 1172 to the principal dependent named thereon or to his agent, when appropriate. The dependent(s) will then present DD Form 1172 to the issuing activity nearest his residence for completion and delivery of DD Form(s) 1173.

§ 809.64 When to surrender USIP card.

* * * * *

§ 809.65 Entitlement to benefits and privileges (§ 809.7).

(If the benefit and privilege source directive and § 809.7 are in conflict, the source directive takes precedence.)

(a) All commissary, exchange, and theater privileges are subject to the SOFA of country of assignment, as well as local regulations.

(b) Uniformed services medical care, for other than dependents of the uniformed services, is subject to the limitations of part 815 of this chapter.

(c) Retired military personnel and their dependents traveling or residing overseas are subject to further limitations (as they are within the United States). Medical and dental care at uniformed services medical facilities are subject to the availability of space and facilities and the capabilities of the professional staff. Commissary and exchange privileges are subject to the SOFA of country of travel or residence, as well as local regulations.

(d) If dependents are in a foreign country unaccompanied (where sponsor is not assigned), benefits and privileges will vary from country to country according to the SOFA. In some countries benefits and privileges are nil (AFR 211–22).

(e) DD Forms 1173 issued in a foreign country will indicate only those privileges authorized in the country of issue in accordance with pertinent international agreements and local regulations.

§ 809.66 Application procedures—dependents of active duty military members.

Rule	A: If service member and—	B: And service member's organization is known—	C: Then comply with § 809.71 rule—
1	Dependents are residing together and member is not assigned to the OSI.		1
2	Dependents are residing together and member is assigned to the OSI.		7
3	Dependents are residing apart due only to assignment restrictions.		2
4	Dependents are residing apart due to interlocutory divorce.	Yes	2
5		No	3
6	Dependents are residing apart due to marital discord.	Yes	4
7		No	3
8	Dependent children residing apart and the children are residing with a guardian, divorced wife, or other person not eligible for a DD Form 1173.	Yes	5
9		No	6

§ 809.67 Application procedures—dependents of retired members.

Rule	A: If retired member and—	B: And application is made in person—	C: Then comply with § 809.71 rule—
1	Dependents are residing together.	Yes	8
2		No	9
3	Dependents are residing apart due to marital discord or interlocutory divorce.	Yes	15
4		No	16
5	Dependents are residing apart due to marital discord or interlocutory divorce and if rule 3 is impractical.	No	17
6	Dependent children residing apart and the children are residing with a guardian, divorced wife, or other person not eligible for a DD Form 1173.	Yes	18
7		No	19
8	If rule 7 is impractical.	Yes	20
9		No	20

§ 809.68 Application procedures—surviving dependents.

Rule	A: For dependents of person who at the time of their death were—	B: Then comply with § 809.71 rule—
1	Active duty members	11
2	Retired	12

§ 809.69 Application procedures—totally disabled veterans and their dependents.

Rule	A: If applicant is—	B: Then comply with § 809.71 rule—
1	Applying in person or by mail	10

§ 809.70 Application procedures—civilian and foreign military personnel and their dependents.

Rule	A: If applicant is—	B: Then comply with § 809.71 rule—
1	Civilian employed by or affiliated with the Air Force (includes dependents).	13
2	Foreign military attached to the Air Force (includes dependents).	14

§ 809.71 Applicant's requirements regarding DD Form 1172 and supporting documents (to be used with §§ 809.66 through 809.70).

Line	Actions indicated by a "X" under applicable rule must be taken by applicant or his agent—	Rule 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
A	Retired member, principal surviving dependent, or agent thereof must obtain DD Form 1172 from nearest military installation.								X	X		X	X			X			X		
B	Lawful spouse may obtain DD Form 1172 from nearest military installation and complete section I and II (ink or typewriter) (see note).		X	X	X					X						X	X	X		X	X
C	Agent acting in behalf of child/children may obtain DD Form 1172 from nearest military installation and complete section I and II (ink or typewriter) (see note).					X	X										X	X		X	X
D	Must complete one copy of DD Form 1172 (ink or typewriter) and list all eligible dependents (see note).	X						X	X	X	X	X	X	X	X	X	X	X	X		
E	Must forward to retired member when applicable...									X							X			X	
F	Insure that entries are correct and legible, that boxes are accurately checked, and that item 21 is signed with payroll signature when signature is required.	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
G	Attach marriage certificate, birth certificates, adoption papers when spouse or children are listed as dependents (required only when current cards have expired or upon initial issue).	X							X	X	X	X	X			X	X	X	X	X	X
H	Must furnish copy of casualty report (AFHQ Form 9-529/DD Form 1300) issued by Department of the Air Force. Contact verifying activity for this documentation.											X	X								
I	Must furnish a copy of retirement order if not included in vol II, Retired List, AF Register. Presentation of sponsor's DD Form 2AF (Ret) (Gray) by sponsor is an acceptable alternative under rule 8.								X	X			X			X	X	X	X	X	X

Line	Actions indicated by a "X" under applicable rule must be taken by applicant or his agent—	Rule 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
J	Must forward to service member for completion at member's servicing CBPO or other designated verifying activity.		X			X														
K	Must forward to commander of service member's organization with a statement giving full details.				X															
L	Must forward to AFMPC/DPMDR if unable to resolve as outlined in § 809.10.			X			X											X		X X
M	Submit Veterans' Administration letter certifying 100% disability and copies of marriage certificate, birth certificates (for children), or other satisfactory evidence of relationship. Current VA letter required for reissue of Veteran's card. Documentation of eligibility or unexpired card required for dependents.										X									
N	Submit to servicing CBPO or other designated verifying activity.	X																		
O	Submit to CBPO specified by the AF commander at first duty station in the United States.														X					
P	Submit to unit commander or other designated activity to which he is attached. Commander may coordinate with contracting officer, if necessary, to resolve an unusual situation.													X						
Q	Submit to OSI activity of assignment.							X												
R	Submit to the CBPO of the nearest AF base, in person or by mail.	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X X
S	Submit to parent service for verification and completion of section IV, DD Form 1172.										X									

NOTE.—The following additional documentation must be furnished along with above requirements:

a. If there is an unmarried child (children) over age 21, but under 23, enrolled in an institution of higher learning, applicant will certify to the dependent's full-time participation (12 semester hours), date of enrollment, and planned graduation date. (Enter in remarks section, DD Form 1172.)

b. If there is an unmarried child (children) over age 21, physically or mentally incapacitated, applicant must furnish a doctor's statement saying that the child is incapable of self-support by reason of physical/mental incapacity that existed before age 21.

c. If there is an unmarried adopted child for whom there are no properly certified adoption papers, a common-law spouse, or illegitimate child, a dependent parent or parent-in-law, a female member's dependent husband, or if either spouse's previous marriage ended in divorce granted by a foreign country, attach a separate DD Form 1172 requesting a dependency determination by AFAFC/AJED. If applicable, attach a certificate or photostatic copy of the divorce decree. If the foregoing information has been furnished previously to the AFAFC in connection with a claim for quarters allowance, reference to the date and place of submission may be made in item 18, DD Form 1172.

d. If a dependency determination for medical care was in effect on date of death of servicing member, the AFAFC determination of dependency is not a requirement for reissue or renewal. DD Form 1172 will reflect the circumstances as they existed at the time of the AFAFC determination.

e. Medal of Honor recipients or their dependents furnish proof of the award by presenting departmental order or citation announcing award.

(10 U.S.C. 8012.)

By order of the Secretary of the Air Force.

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

[FR Doc.73-8381 Filed 5-2-73;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDE PROGRAMS

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

Isophorone

A petition (PP 2F1224) was filed by Rohm & Haas Co., Independence Mall West, Philadelphia, Pa. 19105, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of an exemption from the requirement of a tolerance for residues of isophorone in or on raw agricultural commodities when used as an inert solvent or cosolvent in pesticide formulations applied postemergence to growing crops.

Subsequently, the petitioner amended the petition by proposing that the use of isophorone as an inert solvent or cosolvent in pesticide formulations for postemergence application be limited as follows: (a) For use on rice only, and (b) not for use after rice crop begins to head.

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

1. The pesticide is useful for the purpose for which the exemption is proposed.

2. The proposed exemption will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038), § 180.1001(d) is amended by revising the item "Isophorone" to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * * * *

(d) * * *

Inert ingredients	*Limits*	*Uses*
*	*	*
Isophorone	-------	Solvent and cosolvent for formulations used before crop emerges from soil and for postemergence use on rice before crop begins to head.
*	*	*

Any person who will be adversely affected by the foregoing order may at any time on or before June 4, 1973, file with the hearing clerk, Environmental Protection Agency, room 3902A, Fourth and M Street SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date.—This order shall become effective on May 3, 1973.

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

Dated May 1, 1973.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.73-8884 Filed 5-2-73;8:45 am]

Title 43—Public Lands: Interior

SUBTITLE A—OFFICE OF THE SECRETARY OF THE INTERIOR

Technical Amendments

The U.S. Civil Service Commission published in the FEDERAL REGISTER on August 19, 1972 (37 FR 16787), a rule changing the title of hearing examiner, as used in 5 CFR part 930, subpart B, to administrative law judge.

In order to conform the Department's rules and regulations to that change in title, the Secretary of the Interior, pursuant to the authority vested in him under 5 U.S.C. section 301, promulgates technical amendments to the Department's rules and regulations throughout Subtitle A of Title 43, Code of Federal Regulations, as follows: All references to the terms hearing examiner and examiner are deemed deleted and replaced by the term administrative law

judge, except as the context otherwise requires. All references to the term Chief Hearing Examiner are deemed deleted and replaced by the term Chief Administrative Law Judge.

As the amendments relate to matters of internal Department organization and practice, the prior notice and public procedure provisions of 5 U.S.C. section 553 are inapplicable.

These changes are effective as of August 19, 1972.

Dated April 27, 1973.

ROGERS C. B. MORTON,
Secretary of the Interior.

[FR Doc.73-8638 Filed 5-2-73;8:45 am]

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Technical Amendments

The U.S. Civil Service Commission published in the FEDERAL REGISTER on August 19, 1972 (37 FR 16787), a rule changing the title of hearing examiner, as used in 5 CFR part 930, subpart B, to administrative law judge.

In order to conform the Department's rules and regulations to that change in title, the Secretary of the Interior, pursuant to authority vested in him under 5 U.S.C. section 301, promulgates technical amendments to the Department's rules and regulations throughout Chapter II and Title 43, Code of Federal Regulations, as follows: All references to the terms hearing examiner and examiner are deemed deleted and replaced by the term administrative law judge.

As the amendments relate to matters of internal Department organization and practice, the prior notice and public procedure provisions of 5 U.S.C. section 553 are inapplicable.

These changes are effective as of August 19, 1972.

Dated April 27, 1973.

ROGERS C. B. MORTON,
Secretary of the Interior.

[FR Doc. 73-8637 Filed 5-2-73;8:45 am]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

Paternity and Support

Notice of proposed rulemaking for the program of Aid to Families With Dependent Children (AFDC) was published in the FEDERAL REGISTER on December 19, 1972 (37 FR 27637). The proposed regulations related to the U.S. Supreme Court summary affirmance of three cases dealing with refusal of caretaker relatives to cooperate in establishing parternity and securing support for the children.

The major recommendations regarding this proposal were that issuance be delayed until resolution of a related New York case, *Lavine* v. *Shirley*, recently remanded by the U.S. Supreme Court; that the uncooperative caretaker be excluded from the grant for the children; and that the regulations not be issued at all.

After consideration of all comments, the regulation is adopted with changes to make clear that AFDC may not be denied to the child, but may be denied to the uncooperative caretaker relative.

Section 233.90, part 233, chapter II, title 45 of the Code of Federal Regulations is amended by adding to paragraph (b) a new subparagraph (4) as set forth below:

§ 233.90 Factors specific to AFDC.

* * * * *

(b) *Condition for plan approval.*—(1) A child may not be denied AFDC either initially or subsequently "because of the conditions of the home in which the child resides", or because the home is considered "unsuitable", unless "provision is otherwise made pursuant to a State statute for adequate care and assistance with respect to such child". (Sec. 404(b) of the Social Security Act.)

(2) * * *

(3) * * *

(4) A child may not be denied AFDC either initially or subsequently because a parent or caretaker relative fails to assist:

(i) In the establishment of paternity of a child born out of wedlock; or

(ii) In seeking support from a person having a legal duty to support the child;

But neither this nor any other provision of these regulations should be construed to require that provision be made by a State in its AFDC program for the maintenance of a parent or caretaker who fails to provide such assistance and AFDC may be denied with respect to such parent or caretaker.

* * * * *

(Sec. 1102, 49 Stat. 647 (U.S.C. 1302).)

Effective date.—These regulations in this section shall become effective July 2, 1973.

Dated April 19, 1973.

PHILIP J. RUTLEDGE,
Acting Administrator,
Social and Rehabilitation Service.

Approved April 30, 1973.

FRANK CARLUCCI,
Acting Secretary.

[FR Doc.73-8843 Filed 5-2-73;8:45 am]

Title 49—Transportation

CHAPTER V—DEPARTMENT OF TRANSPORTATION, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

[Docket No. 1-8; Notice 12]

PART 571—MOTOR VEHICLE SAFETY STANDARDS

Retreaded Pneumatic Tires; Response to Petitions for Reconsideration

This notice responds to petitions for reconsideration of the amendment to Standard No. 117 (49 CFR 571.117) published January 31, 1973 (38 FR 2982). Timely petitions were received from the Rubber Manufacturers' Association and the Firestone Tire and Rubber Co. Petitions which were not timely filed, and are therefore considered as petitions for rulemaking under NHTSA procedural rules (49 CFR 553.35), were received from the American Retreader's Association, the B. F. Goodrich Tire Co., and the Goodyear Tire and Rubber Co.

The amendment to Standard No. 117 of January 31, 1973, revoked two performance tests (high speed performance and endurance) and established effective dates for the other provisions of the standard. Apart from these changes, the standard as amended was precisely the same as that published March 23, 1972 (37 FR 5950), for which petitions for reconsideration were received, and responded to on July 15, 1972 (37 FR 13991). It is the NHTSA position that, in cases where a standard or regulation has been published, the issuance of a subsequent amendment to that standard or regulation does not subject the entire standard or regulation to reconsideration. Rather, only those issues which are the subject of the amendment are reconsidered under agency procedural rules. If this were not the case, the time for reconsideration, and review by the court of appeals as specified in 49 CFR 553.39 could be extended again and again. The NHTSA believes that such a result would hamper the administration of the motor vehicle safety standards and regulations and be contrary to the intent of those provisions of the National Traffic and Motor Vehicle Safety Act (section 105, 15 U.S.C. 1394) which provide for expeditious judicial review of NHTSA action. Accordingly, to the extent that the petitions with which this notice is concerned requested changes to requirements which were not the subject of the amendment of January 31, 1973, they are considered petitions for rulemaking under the agency's procedural rules (49 CFR 553.31). Each petitioner will be notified when a decision regarding his petition has been made.

The Rubber Manufacturers' Association has requested that the effective date of paragraph S6.3.2, dealing with permanent labeling, be delayed until the validity of the requirement, which has been challenged by the National Tire Dealers and Retreaders Association (NTDRA v. Volpe, No. 72-1764, C.A.D.C.) (petition for review filed August 8, 1972, pending) is decided. The NHTSA does not consider the filing of a petition for judicial review to be a valid basis for administratively delayng the effective date of the requirement. The effective date is an integral part of the requirement, and the need for an interlocutory suspension can be raised and argued before the court reviewing the validity of the provision. The RMA petition is therefore denied.

Goodyear has requested that the effective date be extended to January 1, 1976, on the basis that casings with retainable labeling will by that time be able to "enter the retreading cycle." The

effective date is based on the time necessary, in the judgment of NHTSA, for the retreading industry to implement techniques to permanently label retreaded tires. The NHTSA agrees that retention of casing labeling is a satisfactory way to accomplish the permanent labeling of retreaded tires, and has amended the Federal motor vehicle safety standards to ultimately achieve this result. It has found, however, that other practicable methods of permanent labeling can be used by retreaders, and has decided that permanent labeling should not be delayed until labeling requirements can be met solely through retention of existing labeling. Existing leadtimes have been found to be adequate, and the Goodyear request is accordingly denied.

Several of the petitions raised the point that the opinion in *H. & H. Tire Company* v. *Volpe*, 471 F. 2d 359 (7th Cir. 1972), which invalidated the high speed and endurance tests, requires a re-examination of the remaining provisions of the standard. The NHTSA finds this position to be without merit. The issues raised and arguments presented in the H. & H. Tire Co. case concerned only the two laboratory wheel tests. No evidence was offered nor arguments made with respect to other requirements of the standard. The NHTSA has fulfilled the mandate of the court in that decision by revoking the two contested laboratory tests.

(Sec. 103, 112, 113, 114, 119, 201 Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1401, 1402, 1403, 1407, 1421; delegation of authority at 49 CFR 1.51)

Issued on April 30, 1973.

JAMES E. WILSON,
Acting Administrator.

[FR Doc.73-8888 Filed 5-2-73;10:26 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1089, Amdt. 6]

PART 1033—CAR SERVICE

New York Dock Railway

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 27th day of April 1973.

Upon further consideration of Service Order No. 1089 (37 FR 2677, 9118, 15930, 23336; 38 FR 877 and 8657), and good cause appearing therefor:

It is ordered, That:

Section 1033.1089, Service Order No. 1089 (New York Dock Railway authorized to operate over trackage abandoned by Bush Terminal Railroad Co.) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.*—This order shall expire at 11:59 p.m., May 31, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date.—This amendment shall become effective at 11:59 p.m., April 30, 1973.

(Secs. 1, 12, 15, and (17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

It is further ordered, That copies of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-8760 Filed 5-2-73;8:45 am]

[S.O. 1098; Amdt. 2]

PART 1033—CAR SERVICE

Chicago and North Western Railway

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 27th day of April 1973.

Upon further consideration of Service Order No. 1098 (37 FR 9633 and 23105), and good cause appearing therefor:

It is ordered, That:

Section 1033.1098, Service Order No. 1089 (Chicago and North Western Railway Co. authorized to operate over tracks abandoned by the Chicago, Rock Island and Pacific Railroad Co.) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.*—The provisions of this order shall expire at 11:59 p.m., July 31, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date.—This amendment shall become effective at 11:59 p.m., April 30, 1973.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-8759 Filed 5-2-73;8:45 am]

[3d Rev. S.O. 1105]

PART 1033—CAR SERVICE

Distribution of Boxcars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 27th day of April 1973.

It appearing, that an acute shortage of 50-foot plain boxcars exists on the Maine Central Railroad Co.; that shippers located on lines of this carrier are being deprived of such cars required for loading, resulting in a severe emergency; that present rules, regulations, and practices with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of boxcars owned by this railroad are ineffective. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

Section 1033.1105, Service Order No. 1105. (a) *Distribution of boxcars.*—Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Return to owner empty, except as otherwise authorized in paragraph (a)(3) of this section, all plain boxcars which are listed in the Official Railway Equipment Register, I.C.C. R.E.R. No. 387, issued by W. J. Trezise, or reissues thereof, as having mechanical designation XM, bearing reporting marks issued to the Maine Central Railroad Co. and having inside length of 49 feet or longer.

(2) Plain boxcars described in paragraph (a)(1) of this section include both plain boxcars in general service and plain boxcars assigned to the exclusive use of a specified shipper.

(3) Boxcars described in paragraph (a)(1) of this section, may be loaded only to stations on the lines of the car owner or to any station which is a junction with the car owner. After unloading at a junction with the car owners, such cars shall be delivered to the car owner at that junction, either loaded or empty.

(4) Boxcars described in paragraph (a)(1) of this section shall not be backhauled empty from a junction with the car owner.

(5) The return to the owner of a boxcar described in paragraph (a)(1) of this section shall be accomplished when it is delivered to the car owner, either empty or loaded.

(6) Junction points with the car owner shall be those listed by the car

owner in its specific registration in the Official Railway Equipment Register, I.C.C. R.E.R. No. 387, issued by W. J. Trezise, or successive issues thereof, under the heading "Freight Connections and Junction Points."

(7) No common carrier by railroad subject to the Interstate Commerce Act shall accept from shipper any loaded boxcar for movements contrary to the provisions of paragraph (a)(3) of this section

(b) *Application.*—The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(c) *Effective date.*—This order shall become effective at 11:59 p.m., April 30, 1973.

(d) *Expiration date.*—This order shall expire at 11:59 p.m., June 30, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-8757 Filed 5-2-73;8:45 am]

[Rev. S.O. 1110; Amdt. 7]

PART 1033—CAR SERVICE

Penn Central Transportation Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 26th day of April 1973.

Upon further consideration of Revised Service Order No. 1110 (37 FR 19616, 22871, 23236; 38 FR 878, 3333, 5636, and 8446), and good cause appearing therefor:

It is ordered, That:

Section 1033.1110, Revised Service Order No. 1110 (Penn Central Transportation Co., George P. Baker, Richard C. Bond, and Jervis Langdon, Jr., trustees, required to restore service at the Buttonwood (Wilkes-Barre), Pa., gateway and to reroute traffic originally routed via that gateway) be, and it is hereby, amended by substituting the following paragraphs (a) and (e) for paragraphs (a) and (e) thereof:

(a) The Penn Central Transportation Co., George P. Baker, Richard C. Bond, and Jervis Langdon, Jr., trustees (Penn Central) be, and it is hereby, ordered to restore service via its Buttonwood (Wilkes-Barre), Pa., gateway on or before May 31, 1973.

* * * * *

(e) *It is further ordered,* That this order shall become effective at 11:59 p.m., September 15, 1972, and, as to § 1033.1110(b), shall expire at 11:59 p.m., May 31, 1973, unless sooner vacated by order of this Commission upon restoration of service through the Buttonwood (Wilkes-Barre) gateway.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-8758 Filed 5-2-73;8:45 am]

[S.O. 1111; Amdt. 7]

PART 1033—CAR SERVICE

Delaware & Hudson Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 26th day of April 1973.

Upon further consideration of Service Order No. 1111 (37 FR 19617, 22872, 25237; 38 FR 878, 3332, 5637, and 8446), and good cause appearing therefor:

It is ordered, That:

Section 1033.1111 Service Order No. 1111 (Delaware & Hudson Railway Co. authorized to operate over tracks of Erie Lackawanna Railway Co., Thomas F. Patton and Ralph S. Tyler, Jr., trustees) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.*—The provisions of this order shall expire at 11:59 p.m., May 31, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date.—This amendment shall become effective at 11:59 p.m., April 30, 1973.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car-hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by deposting a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-8761 Filed 5-2-73;8:45 am]

[S.O. 1127; Amdt. 1]

PART 1033—CAR SERVICE

Central California Traction Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 27th day of April 1973.

Upon further consideration of Service Order No. 1127 (38 FR 7808), and good cause appearing therefor:

It is ordered, That:

Section 1033.1127 Service Order No. 1127 (Central California Traction Co. authorized to operate over tracks of Southern Pacific Transportation Co.) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.*—The provisions of this order shall expire at 11:59 p.m., June 15, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date.—This amendment shall become effective at 11:59 p.m., April 30, 1973.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car-hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-8762 Filed 5-2-73;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—BUREAU OF SPORT FISHERIES AND WILDLIFE, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—HUNTING AND POSSESSION OF WILDLIFE

PART 17—CONSERVATION OF ENDANGERED SPECIES AND OTHER FISH OR WILDLIFE

Technical Amendments

The U.S. Civil Service Commission published in the FEDERAL REGISTER on August 19, 1972 (37 FR 16787), a rule changing the title of hearing examiner, as used in 5 CFR part 930, subpart B, to administrative law judge.

In order to conform the Department's rules and regulations to that change in title, the Secretary of the Interior, pursuant to authority vested in him under 5 U.S.C. section 301, promulgates technical amendments to the Department's rules and regulations throughout Part 17, Subchapter B of Chapter I, Title 50, Code of Federal Regulations, as follows: All references to the terms hearing examiner and examiner are deemed deleted and replaced by the term administrative law judge.

As the amendments relate to matters of internal Department organization and practice, the prior notice and public procedure provisions of 5 U.S.C. section 553 are inapplicable.

These changes are effective as of August 19, 1972.

Dated April 27, 1973.

ROGERS C. B. MORTON,
Secretary of the Interior.

[FR Doc.73-8634 Filed 5-2-73;8:45 am]

PART 33—SPORT FISHING

Necedah National Wildlife Refuge, Wis.

The following special regulation is effective on May 3, 1973.

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

WISCONSIN

NECEDAH NATIONAL WILDLIFE REFUGE

Sport fishing on the Necedah National Wildlife Refuge, Wis., is permitted only on the Sprague-Mather Pool. The open area, approximately 2,000 acres is delineated on a map available at the refuge headquarters and from the office of the Regional Director, Fort Snelling, Twin Cities, Minn. 55111. Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Fishing permitted June 1, 1973 through September 30, 1973.

(2) The use of boats without motors is permitted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through September 30, 1973.

GERALD H. UPDIKE,
Refuge Manager, Necedah National Wildlife Refuge, Necedah, Wis.

APRIL 25, 1973.

[FR Doc.73-8633 Filed 5-2-73;8:45 am]

Proposed Rules

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Arbitrage Bonds

On June 1, 1972, notice of proposed rulemaking was published in the FEDERAL REGISTER (37 FR 10946) in regard to regulations under section 103(d) of the Internal Revenue Code of 1954, relating to arbitrage bonds, to conform such regulations to amendments made by section 601(a) of the Tax Reform Act of 1969 (83 Stat. 656). Notice is hereby given that the proposed regulations set forth in paragraph 2 of the notice of proposed rulemaking are hereby withdrawn except for § 1.103–13(b)(5)(iii) and § 1.103–14(e).

Further notice is hereby given that, in lieu of the proposed rules which are so withdrawn, the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by June 4, 1973. Written comments or suggestions which are not exempt from disclosure by the Internal Revenue Service may be inspected by any person upon compliance with 26 CFR 601.702(d)(9). The provisions of 26 CFR 601.601(b) shall apply with respect to the designation of portions of comments or suggestions as exempt from disclosure. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by June 4, 1973. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in sections 103(d) and 7805 of the Internal Revenue Code of 1954 (83 Stat. 656, 68A Stat. 917; 26 U.S.C. 103, 7805).

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

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 103(d) of the Internal Revenue Code of 1954, relating to arbitrage bonds, in order to conform such regulations to the provisions of 601(a) of the Tax Reform Act of 1969. These amendments supersede the provisions of § 13.4 of this chapter which were prescribed by T.D. 7072 and published in the FEDERAL REGISTER for November 13, 1970 (35 FR 17406).

Section 103(d) applies to obligations issued after October 9, 1969. In general, section 103(d) provides that the exclusion from gross income provided by section 103(a) of interest on the obligations of a State, territory, or possession of the United States, or any political subdivision of any of the foregoing, or of the District of Columbia, shall not apply to an arbitrage bond. For this purpose, an obligation is an arbitrage bond if a major portion of the proceeds of the issue is reasonably expected to be used to acquire securities or obligations which may be reasonably expected to produce a yield which is materially higher than the yield of the governmental obligation.

Section 1.103–13(a)(2) of the proposed regulations provides a method of certification by the issuer to establish the reasonable expectations regarding the use of the bond proceeds. If the issue is $2,500,000 or more, the certification must be accompanied by an opinion of counsel. The certification may be conclusively relied upon by holders of the bond with regard to whether the interest on the obligation is included in gross income. However, the regulations provide that the Commissioner may give notice in the Internal Revenue Bulletin that a certification may not be relied upon in the case of obligations issued after the date of such notice. In such case, the issuer can request a ruling from the Commissioner regarding such obligations.

Section 103(d) also provides that an obligation will not be treated as an arbitrage bond solely because proceeds of the issue are invested for a temporary period until needed for the purpose of the issue or because proceeds of the issue are invested in a reasonably required reserve or replacement fund. The regulations provide for a temporary period of 3 years if requirements are satisfied relating to a binding obligation to commence a project, due diligence in completion of the project, and expenditure of 85 percent of spendable proceeds. This 3-year period may be extended to a 5-year period if the issuer certifies that the longer period is necessary and accompanies the certification with a statement of an architect or engineer.

The regulations also provide that the amount of a reasonably required reserve or replacement fund cannot exceed 15 percent of the original face amount of the issue, or, if less, 5 percent of the original face amount plus certain amounts relating to debt payments.

Section 1.103–13(b) of the proposed regulations defines various terms including "proceeds," "major portion," and "materially higher." In general, proceeds include the amount realized on the sale of bonds and amounts received as investment return. Amounts received as repayment of purpose obligations, for example, housing loans, and amounts received from the sale of property financed by the issue are not treated as proceeds unless there is an unreasonable accumulation of proceeds. The amount of an issue which is a "major portion" is defined in the same manner as the amount of the reasonably required reserve fund. Proceeds invested at a materially higher yield in the reasonably required reserve fund are also counted as investments under the major portion rule. "Materially higher" is defined as any amount in excess of one-eighth of 1 percentage point, or, if the issuer elects to waive the temporary period, one-half of 1 percentage point.

Section 1.103–13(b)(5)(ii) provides that in the case of an issue of governmental obligations in which it is expected that the original proceeds of the issue will exceed by more than 5 percent the amount required for the project to be financed by the issue, the issuer will not be permitted to invest the proceeds of the issue in acquired obligations with a materially higher yield regardless of whether the investment is during the temporary period, in a reasonably required reserve or replacement fund, or is less than a major portion of the proceeds. The issuer is limited to a one-eighth of 1 percentage point differential between the governmental obligations and the acquired obligations.

The yield on the governmental obligations and the yield on obligations acquired with the proceeds of governmental obligations must be computed under the actuarial method of computing yield. The temporary regulations and the June 1, 1972, proposed arbitrage bond regulations permitted the use of the Investment Bankers Association method of computing yield. However, that method could cause a significant distortion of yield when compared with the actuarial method of computing yield.

A State or local governmental unit is required to allocate its portfolio of investments to the proceeds of outstanding

governmental obligations. Section 1.103–13(f) provides that allocations may be made at any time and under any method chosen by the State or local governmental unit. Time or demand deposits may be allocated to the proceeds of an issue of governmental obligations if the time or demand deposits are maintained for the purposes for which the proceeds of the governmental obligations may be expanded.

Section 1.103–14(b) (6) and (7) provides temporary periods of 1 year after receipt for investment proceeds and 6 months after receipt for indirect proceeds These provisions allow issuers to invest investment proceeds and indirect proceeds in materially higher yield acquired obligations for the applicable time period.

The proceeds of an issue of obligations issued in anticipation of taxes or other revenues may, under § 1.103–14(c), be invested in materially higher yield acquired obligations for a temporary period of up to 24 months depending upon the character of the taxes or revenues which are anticipated. These tax and revenue anticipation notes may not be issued in an amount greater than the maximum deficit to be financed by the anticipated tax or other revenue sources during the period for which such taxes or other revenues are anticipated and during which period such obligations are outstanding.

In order to conform the Income Tax Regulations (26 CFR part 1) to certain amendments made to the Internal Revenue Code of 1954 by section 601(a) of the Tax Reform Act of 1969 (83 Stat. 656), relating to arbitrage bonds, such regulations are hereby amended as set forth below. Section 1.103–13 of the regulations hereby adopted supersedes the provisions of § 13.4 of this chapter which were prescribed by T.D. 7072, approved November 7, 1970, and published in the FEDERAL REGISTER for November 13, 1970 (35 FR 17406).

There are inserted immediately after § 1.103–12 the following new sections:

§ 1.103–13 Arbitrage bonds.

(a) *Scope.*—(1) *In general.*—Under section 103(d)(1), an arbitrage bond shall be treated as an obligation not described in section 103(a)(1) and § 1.103–1. Thus, the interest on an arbitrage bond will be included in gross income and subject to Federal income taxation. In general, arbitrage bonds are obligations issued by a State or local governmental unit, the proceeds of which are reasonably expected to be used to acquire other obligations where the yield on such acquired obligations will be materially higher than the yield on the governmental obligations during the term of such governmental issue. The term "arbitrage bond" is defined in paragraph (b)(1) of this section. Under paragraph (b) of § 1.103–14, the investment of all or a portion of the proceeds of an issue of obligations for a temporary period or periods will not cause such obligations to be arbitrage bonds regardless of the yield produced by such investment. Paragraph (b) (6) and (7) of § 1.103–14 provides a temporary period for investment proceeds and indirect proceeds. Under paragraph (b)(1) of this section, the investment of less than a major portion of the proceeds of the issue in materially higher yield acquired obligations will not cause such obligations to be arbitrage bonds. Similarly, under paragraph (d) of § 1.103–14, the investment of a portion of the proceeds as a reasonably required reserve or replacement fund will not cause such obligations to be arbitrage bonds regardless of the yield produced by such investment. Even if an obligation is not an arbitrage bond under section 103(d), such bond may nevertheless be treated as an obligation which is not described in section 103(a)(1) and § 1.103–1 if it is an industrial development bond under section 103(c). For regulations as to special issues of Federal Treasury obligations offered to State and local governmental units, see 31 CFR part 344.

(2) *Reasonable expectations.*—(i) Under section 103(d)(2), the determination whether an obligation is an arbitrage bond depends upon the reasonable expectations, as of the date of the issue, regarding the amount and use of the proceeds of the issue, Thus, an obligation is not an arbitrage bond if it is reasonably expected on the date of issue that the proceeds of the issue will not be used in a manner that would cause the obligation to be an arbitrage bond under section 103(d)(2), this section, and § 1.103–14. The reasonable expectations regarding the amount and use of the proceeds of a governmental obligation may be established by the certification described in subdivision (ii) of this subparagraph. See paragraph (b)(2)(iii) of this section for the treatment of indirect proceeds.

(ii) A State or local governmental unit may certify, in the bond indenture or a related document, that on the basis of the facts, estimates, and circumstances (including covenants of such governmental unit) in existence on the date of issue it is not expected that the proceeds of the issue of obligations will be used in a manner that would cause such obligations to be arbitrage bonds. A certification by an officer of the issuer charged either alone or with others with the responsibility for issuing the obligations may be relied upon as a certification of the issuer. The certification shall set forth such facts, estimates, and circumstances, which may be in brief and summary terms, and state that to the best of the knowledge and belief of the certifying officer there are no other facts, estimates, or circumstances that would materially change such expectation. In the case of an issue of governmental obligations with a face amount of $2,500,000 or more, the certification shall be accompanied by an opinion of counsel that—

(A) Based upon such investigations as counsel deemed reasonably appropriate under the circumstances, which shall be generally described, such certification is not unreasonable, or

(B) Based on such counsel's examination of law and review of the certification, the facts, estimates, and circumstances are sufficiently set forth in the certification to satisfy the criteria which are necessary under section 103(d), this section, and § 1.103–14 to support the conclusion that the obligations of the issue will not be arbitrage bonds, and that no matters have come to such counsel's attention which make unreasonable or incorrect the representations made in the certification. The certification described in this subdivision is not affected by subsequent events, and, unless a notice under paragraph (a)(2)(iii) of this section is in effect with respect to the State or local governmental unit prior to the date on which an obligation of such unit is issued, holders of such obligation may conclusively rely on such certification with regard to whether the interest on such obligation is included in gross income.

(iii) The Commissioner may give notice by publication in the Internal Revenue Bulletin that the certification of a State or local governmental unit may not be relied upon with respect to issues of governmental obligations to be issued by it subsequent to the date of publication of such notice. If such notice has been published, the certification as to the expectations described in paragraph (a)(2)(ii) of this section may not be relied upon with respect to any obligations issued by the State or local governmental unit after the date of such notice unless it is established to the satisfaction of the Commissioner prior to the date of any subsequent issue that such certification may be relied upon. No State or local governmental unit shall be listed in such notice unless such unit has been advised that such a listing is contemplated and such unit has been given an opportunity to consult thereon with the Commissioner. If subsequent to the date of publication of such notice the Commissioner determines that the statement of certification of a State or local governmental unit may be relied upon with respect to future issues of governmental obligations, the Commissioner shall give notice of such determination in the Internal Revenue Bulletin.

(iv) The provisions of this subparagraph may be illustrated by the following example:

Example (1).—(i) On July 5, 1973, city A issues $2,250,000 in municipal bonds for the purpose of paying the cost of constructing and equipping a new water treatment facility. The cost of the facility is $1,900,000 and a reserve and replacement fund of $337,500 is planned. The bonds are dated July 1, 1973, and are payable in equal annual installments beginning on July 1, 1974, and ending on July 1, 1993, with interest payable on January 1 and July 1 of each year. The bonds are sold at price of par plus a premium of $5,000 and accrued interest (from July 1, 1973) of $128. The amounts received as premium and accrued interest are to be applied to the first payment of debt service. All additional debt service is to be paid from general revenue funds. City A determines that the yield on the issue of its obligations is 5 percent. Prior to the time that the bond

proceeds are needed for the project, the city intends to use part of the proceeds to acquire Federal Treasury obligations which mature before June 30, 1976, and to deposit the remaining proceeds of the issue in noninterest-bearing demand deposits. The yield on the Treasury obligations and the demand deposits when computed together is 6½ percent. The city expects to enter into a contract for architectural services for the facility on or before October 31, 1973, and the fee to be paid to the architect is $50,000. City A expects to proceed with the project thereafter with due diligence to completion. The city expects to spend $1,900,000 on the project by July 5, 1976, which is more than 85 percent of spendable proceeds. (Spendable proceeds were $1,912,500, i.e., original proceeds of $2,255,128 minus the sum of the amount of premium and accrued interest applied to debt service ($5,128) and the amount of a reasonably required reserve fund ($337,500).) After paying the full cost of $1,900,000 for constructing the facility and applying the premium of $5,000 and accrued interest of $128 to debt service, city A will have proceeds of $350,000. (All earnings received during the construction period are to be transferred within 1 year of receipt to the city's general fund, as will be done with all subsequent earnings, and, consequently, such earnings are not treated as proceeds.) City A plans to invest $337,500 in acquired obligations with a yield of 6½ percent and $12,500 in acquired obligations with a yield of 5⅛ percent. The city has no plans to sell the facility.

(ii) City A includes in the bond indenture a certification which reads as follows:

"The undersigned treasurer of city A certifies and reasonably expects that the following will occur with respect to the bonds of the city dated July 1, 1973: (*1*) the city will enter into a contract for architectural services for the project financed by the bonds within 6 months from the date of issue of the bonds, and the fees to be paid to the architect thereunder will exceed 2½ percent of the total cost of the project; (*2*) work on the project will proceed thereafter with due diligence to completion; (*3*) at least 85 percent of the spendable proceeds of the bonds will be expended for project costs by July 5, 1976; (*4*) the yield on the municipal obligations is computed to be 5 percent, and the yield on the acquired obligations which are to be allocated to the proceeds of this bond issue except obligations in a reasonably required reserve or replacement fund and obligations held only during the temporary period is 5⅛ percent; (*5*) the project will not be sold or otherwise disposed of, in whole or in part, prior to the last maturity of the bonds; (*6*) the original proceeds of this issue will not exceed by more than 5 percent the amount necessary for the purpose or purposes of the issue.

"On the basis of the foregoing, it is not expected that the proceeds of the bonds will be used in a manner that would cause the bonds to be arbitrage bonds under section 103(d) of the Internal Revenue Code and the regulations prescribed under that section. To the best of my knowledge and belief, there are no other facts, estimates, or circumstances that would materially change the foregoing conclusion."

(iii) The certification by city A meets the requirements of this subparagraph.

Example (2).—The facts are the same as in example (1) except that the bonds of a face amount of $2,500,000 are issued for that amount and the project will cost $2,150,000. The city attorney of city A chooses to write an opinion under the provisions of subdivision (ii)(A) of this subparagraph to accompany the certification. The following opinion meets the requirements of this subparagraph:

"I, city attorney for city A, have conducted an investigation regarding the issuance on July 5, 1973, of $2,500,000 in municipal water treatment facility bonds. This investigation included: (1) An examination of the proposed contract with the architect; (2) consultation with the city treasurer regarding (a) the reinvestiment of investment proceeds received during the term of the issue, (b) the use of the proceeds of the issue remaining after the temporary period, (c) the amount of expenditures for the project during the temporary period, (d) the acquired obligations which are to be allocated to the proceeds of the issue, and (e) the method used to determine the yield of the obligations of the issue and acquired obligations to be allocated to the issue; (3) consultation with the city manager regarding plans for the sale or disposition of the facility; (4) an examination of the amount needed for the purpose of the issue and the amount of the issue. Based upon the above-described examination, it is my opinion that the certification of the city treasurer is not unreasonable."

(3) *Effective date.*—The provisions of section 103(d), this section, and § 1.103–14 apply with respect to obligations issued after October 9, 1969. Obligations issued prior to June 4, 1973, will not be arbitrage bonds if such obligations are not arbitrage bonds under the provisions of the proposed regulations under section 103(d) of the Internal Revenue Code of 1954, relating to arbitrage bonds, appearing in the FEDERAL REGISTER for June 1, 1972 (37 FR 10946), but in determining whether obligations issued after March 8, 1973, are arbitrage bonds, the yield on governmental obligations and acquired obligations may be computed pursuant to the method described in § 1.103–13(c) of such proposed regulations only if such method does not significantly distort yield. See paragraph (b)(6) of this section for definition of the term "date of issue."

(b) *Definitions.*—For purposes of this section and § 1.103–14, the following definitions and rules shall apply:

(1) *Arbitrage bonds.*—(i) Under section 103(d)(2), an obligation is an arbitrage bond if it is issued by a State or local governmental unit as part of an issue of obligations (for purposes of this section and § 1.103–14 referred to as governmental obligations) all or a major portion of the proceeds of which are reasonably expected to be used directly or indirectly—

(A) To acquire acquired obligations which may reasonably be expected, on the date of issue of such governmental obligations, to produce a yield during the term of the issue of such governmental obligations which is materially higher than the yield on such issue, or

(B) To replace funds which were used directly or indirectly to acquire such acquired obligations.

(ii) A major portion of the proceeds is any amount in excess of an amount equal to the lesser of (A) 15 percent of the original face amount of the issue, or (B) the sum of 5 percent of the original face amount of the issue plus the lesser of (*1*) 1⅓ times an amount equal to 1 year's debt service on the issue on an assumed level annual debt service schedule over the term of the issue, or (*2*) an amount equal to the maximum annual debt service on the issue. If the original proceeds of an issue (determined without regard to issuing expenses) are less than 98 percent of the original face amount of such issue, then the percentage under paragraph (b)(1)(ii)(A) and (B) of this section shall be based on the amount of such original proceeds. The term "materially higher" is defined in paragraph (b)(5) of this section. Yield is computed under paragraph (c) of this section. For rules with respect to bonds issued to finance certain governmental programs and with respect to exempt arbitrage bonds for educational personnel, see, respectively, paragraphs (d) and (e) of this section. Acquired obligations are defined in paragraph (b)(4) of this section and are allocated under paragraph (f) of this section to proceeds of governmental obligations.

(2) *Proceeds.*—The types of proceeds attributable to an issue of governmental obligations are defined and illustrated as follows:

(i) "Original proceeds" are net amounts (after payment of all expenses of issuing the obligations) received by the State or local governmental unit as a result of the sale of such issue. Examples of issuing expenses are advertising and printing costs, financial advisors' and counsel fees, initial fees of trustees, paying agents, certifying or authenticating agents, and similar expenses.

(ii) "Investment proceeds" are amounts received at any time by the issuer, such as interest and dividends, resulting from the investment of any proceeds of an issue of obligations in acquired nonpurpose obligations and amounts received as interest or dividends resulting from the investment of any proceeds of such issue in acquired purpose obligations. Thus, for example, the interest received on acquired Federal obligations purchased with the proceeds of an issue of governmental obligations constitutes investment proceeds of such issue whether or not such acquired obligations represent amounts invested for a temporary period or in a reasonably required reserve or replacement fund under § 1.103–14. Investment proceeds are increased by any profits and decreased (if necessary, below zero) by any losses on such investments. Amounts received from the investment of any proceeds of an issue are not investment proceeds if, within 1 year of receipt, such amounts are commingled for the purpose of accounting for expenditures with substantial tax or other substantial revenues from the operations by a State or local governmental unit.

(iii)(A) "Indirect proceeds" are amounts received at any time by the issuer as repayments of principal on acquired purpose obligations and to the extent that proceeds of an issue of governmental obligations are expended to finance property, the recovery of principal from the sale or other disposition by such issuer of such property.

(B) "Indirect proceeds" are included within the definition of the term "proceeds" if such indirect proceeds are unreasonably accumulated during the term

of the issue. Indirect proceeds are unreasonably accumulated if on the date of issue it is probable that such accumulated proceeds together with any accumulated original and investment proceeds would be sufficient to enable the issuer to retire substantially all of the issuer's debt on the issue at a date which is significantly earlier than the last maturity date of the issue (regardless of whether such issue is callable on such earlier date).

(C) The provisions of this subdivision may be illustrated by the following example:

Example.—On January 1, 1974, city A issues $1 million of 20-year serial noncallable governmental obligations with level debt service. City A plans to expend all the original proceeds of the issue to finance the construction of a municipal parking lot at a cost of $1 million. At the time the bonds are issued, city A plans to sell the parking lot on July 1, 1985, for $600,000 cash. As a result of the sale, city A will have on hand on July 1, 1985, indirect proceeds that are sufficient to pay substantially all of the principal, with interest to such date, of the outstanding governmental obligations. Since on the date of issue city A could reasonably have foreseen that substantially all of the governmental obligations could be retired on July 1, 1985, there is an unreasonable accumulation of indirect proceeds. Accordingly, the indirect proceeds of the issue must be taken into account as proceeds for purposes of section 103(d).

(3) *State or local governmental unit.*—The term "State or local governmental unit" shall have the same meaning as in paragraph (a) of § 1.103–1.

(4) *Acquired obligations.*—(i) The term "acquired obligations" means securities and obligations allocated to the proceeds of an issue of governmental obligations during the period of time that such issue is outstanding.

(ii) The term "securities" has the same meaning as in section 165(g)(2)(A) and (B). Thus, the term "security" means (A) a share of stock in a corporation, or (B) a right to subscribe for, or to receive, a share of stock in a corporation.

(iii) The term "obligation" means any evidence of indebtedness which is not described in section 103(a)(1).

Thus, for example, if interest on a bond issued by a State or local governmental unit is not exempt in the hands of the holder because it is an industrial development bond or an arbitrage bond, the bond is an obligation within the meaning of this subdivision. For another example, a transaction which in form is a lease of property by a State or local governmental unit, but which is treated for Federal income tax purposes as a loan (or an installment sale) is an obligation for purposes of this subdivision. Time or demand deposits (whether or not such deposits are interest bearing) are obligations within the meaning of this subdivision to the extent that such deposit or deposits are maintained for the purposes for which the proceeds of the issue of obligations may be expended (including as a purpose any investment in a reserve or replacement fund).

(iv) The classes of acquired obligations and the definitions of such classes are as follows:

(A) "Acquired purpose obligations" are obligations acquired to carry out the purpose of a governmental program for which the governmental obligations are issued. Thus, for example, a note secured by a mortgage on a facility built with the proceeds of an exempt small issue of industrial development bonds (within the meaning of section 103(c)(6) and § 1.103–10) is an acquired purpose obligation in the hands of the issuer of such exempt small issue. Obligations acquired solely for the purpose of realizing an arbitrage profit are not acquired purpose obligations.

(B) "Acquired nonpurpose obligations" are acquired obligations other than acquired purpose obligations.

(5) *Materially higher.*—(i) The yield produced by acquired obligations is materially higher than the yield produced by an issue of governmental obligations if the yield produced by the acquired obligations exceeds the yield produced by the issue of governmental obligations by more than (A) one-eighth of 1 percentage point, or (B) at the election of the issuer, one-half of 1 percentage point if such issuer waives the provisions of paragraph (b)(1) through (5) of § 1.103–14(b) (relating to the temporary period). Notwithstanding an election under (B) of this subdivision, the requirements of paragraph (b)(2)(ii) of § 1.103–14, relating to the expenditure test, must be satisfied. Such election may be made for any issue of governmental obligations issued after July 1, 1972, provided that in the case of an issue of obligations issued after June 4, 1973, such election shall be stated in any certification under paragraph (a)(2)(ii) of this section. See paragraph (b)(5)(ii) of this section for rules regarding refunding proceeds and see paragraph (b)(5)(iii) of this section for rules regarding an over-issuance of obligations.

(ii) In the case of an issue of obligations in which it is reasonably expected that the original proceeds of such issue will exceed the amount necessary for the governmental purpose or purposes of the issue by more than 5 percent of such amount, the rules of this subdivision shall apply in lieu of the provisions of paragraph (b)(5)(i) and (iii) of this section. If there are two or more projects (within the meaning of § 1.103–14(b)(2)), such projects shall, for purposes of this subdivision, be deemed to be a single governmental purpose. The yield produced by acquired obligations acquired with the proceeds of such issue (including any acquired obligations held during the temporary periods described in § 1.103–14(b), invested in the reserve or replacement fund as defined in § 1.103–14(e), and any investments of less than a major portion of such proceeds as described in paragraph (b)(1) of this section) is materially higher than the yield produced by an issue of governmental obligations if the yield produced by the acquired obligations exceeds the yield produced by the issue of governmental obligations by more than one-eighth of 1 percentage point.

(6) *Date of issue.*—The date of issue of an obligation is the date on which there is a physical delivery of the evidences of indebtedness in exchange for the amount of the issue price. For example, obligations are issued when the issuer physically exchanges the obligations for the underwriter's (or other purchaser's) check. Thus, obligations which are taken down after October 9, 1969, by purchasers pursuant to a delayed delivery agreement with the issuer are subject to the rules contained in section 103(d), this section, and § 1.103–14.

(7) *Term of an issue.*—The term of the issue is the period beginning on the date of issue and ending on the latest maturity date of any obligation of the issue without regard to optional redemption dates.

(8) *Bond indentures and related documents.*—The term "bond indenture" includes a bond resolution or ordinance. With respect to a bond indenture, the term "related documents" includes, for example, a trust agreement, a prospectus, or a transcript of proceedings and accompanying certificates.

(c) *Computation of yield.*—(1) *In general*—For purposes of this section and § 1.103–14, the term "yield" means that yield which, when used in computing the present worth of all payments of principal and interest to be paid on the obligation produces an amount equal to the purchase price. The yield on both governmental obligations and acquired obligations shall be calculated by the use of the same frequency interval of compounding interest. Thus, for example, if the yield on the governmental obligations is determined on the basis of semiannual interest compounding, then the yield on acquired obligations acquired with the proceeds of such governmental obligations shall also be expressed in terms of semiannual interest compounding. In the case of governmental obligations, the computation shall be made separately for each issue of obligations issued by a governmental unit, except that such computation may be made jointly for several issues of governmental obligations issued by a State or local governmental unit if such unit establishes to the satisfaction of the Commissioner that such computation will not result in a distortion of yield. In the case of acquired obligations, the computation shall be made separately with respect to each class of acquired obligations referred to in paragraph (b)(4)(iv) of this section allocated to an issue of governmental obligations. An amount equal to the sum of the administrative costs of issuing, carrying, and repaying an issue of governmental obligations shall be treated as a discount on the selling price of such issue. An amount equal to the sum of the administrative costs to be incurred in purchasing, carrying, and selling or redeeming a class of acquired obligations shall be treated as a premium on the purchase price of such acquired obligations. The yield produced by an acquired obligation which is

a security may be computed by any method which is consistent with the principles of the actuarial method of computing yield. For purposes of such computation, securities held beyond the last expected maturity date of the governmental obligations shall be deemed to be sold on such maturity date. In cases where the issuer has no reasonable expectations as to the amount of principal to be repaid on an acquired security at the time that such security is sold, the amount of such principal shall be deemed to be the same as the fair market value of such security on the date of issue of the governmental obligations to which such security is allocated or, if later, the date on which such security is acquired. No yield computation need be made with respect to an acquired obligation while such obligation is held during the temporary period or periods referred to in paragraph (b) of § 1.103–14, since yield allocable to such temporary period or periods is disregarded in determining whether a governmental obligation is an arbitrage bond. However, in the case of an acquired obligation which is held during and after a temporary period, if the yield applicable to the temporary period exceeds the yield of a comparable obligation that could be acquired and held only during such temporary period, then the computation of yield on such acquired obligation must be made by taking into account the yield allocable to such temporary period or periods. No computation need be made with respect to acquired obligations which represent a reasonably required reserve or replacement fund under paragraph (d) of § 1.103–14 or represent investments of less than a major portion of the proceeds within the meaning of paragraph (b)(1) of this section. See paragraph (b)(5)(ii) of this section for rules regarding an overissuance of obligations.

(2) *Classes of acquired obligations.*—The yield produced by a class of acquired obligations shall be computed as if all of the obligations of such class comprised a single issue of obligations, whether or not such obligations are to be acquired or held concurrently. Thus, for example, if an issuer uses the proceeds of an issue to acquire two blocks of nonpurpose obligations (such as, for example, Federal obligations) with different interest rates and maturity periods for each block, the yield on such acquired nonpurpose obligations shall be computed as if such issuer acquired one issue of obligations with different interest rates and maturity periods. The maturity period of each acquired obligation shall be the period that the State or local governmental unit will hold such obligation.

(3) *Example.*—The provisions of this paragraph may be illustrated by the following example:

Example.—(i) On January 1, 1974, city A sells for a premium of $100,000 a 5-year $1 million obligation. City A will make semiannual interest payments beginning on July 1, 1974, of $36,425.88 and will make the $1 million principal payment on January 1, 1979. The proceeds of the issue are to be used for a municipal construction project, and city A reasonably expects on the date of issue that the project will be paid for by January 1, 1977. A portion of the proceeds of the issue are invested in a reasonably required reserve or replacement fund which will extend through the term of the issue. On January 1, 1974, $9,800 of the proceeds of the issue (other than the proceeds invested in the reasonably required reserve and replacement fund) are used to buy an acquired obligation which has a par value of $10,000, a stated interest rate of 4.7585 percent per annum and a maturity date of January 1, 1979. Interest on the acquired obligation will be paid annually at the rate of $475.85. Interest on the acquired obligation will be used when received to pay construction expenses as received.

(ii) The yield on the governmental obligations is 5 percent and is computed as follows:

Date	Payments (interest and principal)	Present worth factor	Column (1) times column (2)
July 1, 1974	$36,425.88	0.97560976	35,537.44
Jan. 1, 1975	36,425.88	.95181440	34,670.68
July 1, 1975	36,425.88	.92859941	33,825.05
Jan. 1, 1976	36,425.88	.90595064	33,000.05
July 1, 1976	36,425.88	.88385429	32,195.17
Jan. 1, 1977	36,425.88	.86229687	31,409.92
July 1, 1977	36,425.88	.84126524	30,643.83
Jan. 1, 1978	36,425.88	.82074657	29,896.42
July 1, 1978	36,424.88	.80072836	29,167.24
Jan. 1, 1979	36,425.88	.78119840	28,455.84
Do	1,000,000.00	.78119840	781,198.40
Total			1,100,000.04

The present worth factor represents the present worth of a dollar payable at the specified future date based on an annual interest rate of 5 percent compounded semiannually.

(iii) The yield on the acquired obligation is 5.124257 percent and is computed as follows:

	Payments (interest and principal)	Present worth factor	Column (1) times column (2)
Year 1	$475.85	0.9566615900	452.37
Year 2	475.85	.9037574700	430.05
	10,000.00	.9037574700	9,037.57
Total			9,919.99

The present worth factor represents the present worth of a dollar payable at the specified future date based on an annual interest rate of 5.124257 percent compounded semiannually. Since the yield on the acquired obligation allocable to the temporary period does not exceed the current market true yield on a comparable acquired obligation held for a 3-year period, no yield computation need be made with respect to such acquired obligation while it is held during the 3-year temporary period. Thus, the yield is computed as though the obligation matured on January 1, 1976, and as though the obligation were purchased at a discount of $80 (two-fifths of the $200 discount on the obligation).

(d) *Rule with respect to certain governmental programs.* [Reserved]

(e) *Exempt arbitrage bonds for personnel of educational institutions.*—(1) *In general.*—Under section 103(d)(3), except as provided in subparagraph (3) of this paragraph, interest paid on an issue of arbitrage bonds is not includable in gross income if—

(i) The bonds are issued as part of an issue 90 percent of the proceeds of which are used to provide permanent financing for real property occupied or to be occupied for residential purposes by the personnel of an educational institution (within the meaning of section 151(e)(4)) which grants baccalaureate or higher degrees, or to replace funds which are so used, and

(ii) The yield on the bonds (computed in accordance with paragraph (c) of this section) is not more than 1 percentage point lower than the yield on obligations acquired in providing such financing.

(2) *Other definitions.*—The following definitions shall apply for purposes of this paragraph:

(i) The term "real property" means land or improvements thereon, such as buildings or other inherently permanent structures thereon (including items which are structural components of such buildings or structures). In addition, the term "real property" includes interests in real property. Local law definitions will not be controlling for purposes of determining the meaning of the term "real property" as used in section 103(d)(3) and this paragraph. The term includes items which are structural components of a building such as the wiring, plumbing system, central heating or central air-conditioning machinery, pipes, or ducts, and elevators or escalators installed in the building. The term also includes built-in air conditioners, stoves, refrigerators, and dishwashers, but does not include any other accessories or equipment which are not structural components of the building.

(ii) The term "personnel of an educational institution" means the personnel who are employed by the institution on a full-time basis for at least one semester even if such persons are also enrolled for a degree and take courses. The determination whether a person is employed on a full-time basis depends upon the customary practice of the educational institution.

(3) *Obligations held by substantial users or related persons.*—Subparagraph (1) of this paragraph shall not apply to any bond for any period during which it is held by a person who is a substantial user of the real property financed by the proceeds of the issue of which it is a part, or by a member of the family (within the meaning of section 313(a)(1)) of any such person. A person is a substantial user of such real property if he occupies such property for any period in excess of 3 months.

(f) *Allocation of investments and expenditures.*—(1) *In general.*—A State or local governmental unit shall allocate the cost of its acquired obligations to the allocable proceeds of each issue of governmental obligations issued by such unit after October 9, 1969. Allocable proceeds for an issue are the proceeds of such issue minus expenditures made with such proceeds other than amounts expended on acquired purpose or nonpurpose obligations. In cases where any such expenditure is made from the proceeds of several issues of governmental obligations or from several types of proceeds, such expenditures shall be allocated among such proceeds. Allocations under this paragraph may be made at

any time and under any method chosen by the State or local governmental unit, provided that an allocation with respect to an issue shall be consistent with such allocation for the purpose of allocations with respect to other issues of governmental obligations. Thus, the cost of an acquired obligation cannot be allocated to more than one issue of governmental obligations at the same time.

(2) *Repayments of principal.*—Repayments of principal on acquired obligations are a reduction in the allocable cost of such acquired obligations. Repayments of principal on acquired purpose obligations are a reduction in the amount of allocable proceeds to which such principal was allocated. However, such reduction of proceeds may be offset by the inclusion of such repayments as indirect proceeds pursuant to paragraph (b)(2)(iii)(B) of this section.

(3) *Time or demand deposits.*—The cost of a time or demand deposit may be allocated to the proceeds of an issue of governmental obligations to the extent that such time or demand deposits are maintained for the purposes for which the proceeds of such governmental obligations may be expended (including as a purpose any investments in a reserve or replacement fund). Thus, for example, if authority A, having one issue of governmental obligations outstanding, has a checking account which on January 1, 1974, reflects a balance of $500,000, and if such authority's records show that $200,000 of such balance are proceeds of an outstanding issue of governmental obligations which are to be used to pay construction costs on the project financed with the proceeds of such issue, then authority A may allocate $200,000 of such account to the outstanding issue of governmental obligations.

(4) *Examples.*—The provisions of this subparagraph may be illustrated by the following examples:

Example (1).—On January 1, 1974, authority B issues a $10 million government obligation at a premium of $500,000 for the purpose of purchasing home loans. Authority B expects that prior to September 1, 1974, it will have expenditures and receipts with respect to the issue as follows:

Date	Expenditure	Receipt	Explanation
Jan. 1, 1974	$50,000		Issuing expenses.
Feb. 1, 1974	1,000,000		Treasury obligations.
Mar. 1, 1974	8,000,000		Housing loans.
June 1, 1974	500,000		Debt service paid with bond proceeds.
Aug. 1, 1974		$20,000	Interest on Treasury obligations.
Do		50,000	Repayment of principal on Treasury obligations.
Sept. 1, 1974		200,000	Interest on loans.
Do		10,000	Repayment of principal on housing loans.

When computing the allocable proceeds of the issue as of September 1, 1974, authority B expects to reduce the $10,500,000 original proceeds by the following amounts:

Issuing expenses	$50,000
Debt service	500,000
Repayment of principal on housing loans	10,000
Total	560,000

The following receipts result in an increase in allocable proceeds:

Interest on Treasury obligations	$20,000
Interest on loans	200,000
Total	220,000

Thus, the $10,500,000 original proceeds will be decreased as of September 1, 1974, by a net amount of $340,000, and on such date the amount of allocable proceeds is $10,160,000. The inevstment in housing loans and Treasury obligations does not decrease allocable proceeds since the investment is for acquired purpose and acquired nonpurpose obligations. The investment in housing loans and Treasobligations does not increase allocable proceeds. The repayment of principal on the housing loans reduces the amount of allocable proceeds. Although the amounts received as repayment of principal are indirect proceeds, such amounts are not taken into account as proceeds for purposes of section 103(d) since authority B did not expect to unreasonably accumulate such indirect proceds. The repayments of principal on the housing loans and the Treasury obligations reduce the allocable cost of the acquired obligations. Thus, on September 1, 1974, authority B will have $950,000 in Treasury obligations and $7,990,000 in housing loans which may be allocated to the allocable proceeds of the governmental obligations.

Example (2).—On January 1, 1974, city C issues a 10-year $5 million revenue bond issue with a yield of 5 percent for the purpose of constructing a revenue producing facility. City C expects to receive, by January 1, 1978, proceeds from the issue as follows:

Proceeds from bond sales	$5,000,000
Investment proceeds	500,000
Total	5,500,000

The city expects expenditures, by January 1, 1978, with regard to the issue as follows:

Issuing expenses	$25,000
Construction expenses	3,750,000
Debt service paid with bond proceeds	250,000
Total qualifying expenditures	4,025,000
Debt service paid with revenues	500,000

On January 1, 1978, city C has $1,475,000 in proceeds which have not been expended on either the project or debt service. (The debt service paid with revenues was not paid with proceeds of the issue and thus does not decrease proceeds.) On January 1, 1978, city C has a reserve or replacement fund for this issue (as described in § 1.103-14(d)) in the amount of $750,000. Also $50,000 of the investment proceeds are invested for a temporary period (as described in § 1.103-14(b)(6)). As of January 1, 1978, the city may allocate to the proceeds of the issue $675,000 in acquired obligations which do not have a materially higher yield. Furthermore, the city may allocate to the proceeds of the issue $800,000 in acquired obligations with a materially higher yield.

Example (3).—On January 1, 1974, city C expects that on January 1, 1978, its records will show the following information regarding the city's outstanding issues of governmental obligations including the issue of obligations described in example (2):

GOVERNMENTAL OBLIGATIONS

Date of issue	Yield	Proceeds which may be used to acquire materially higher yield acquired obligations	Proceeds which may be used to acquire obligations which do not have a materially higher yield
Mar. 5, 1955	4.3		
Dec. 13, 1969	7.7		
May 6, 1970	6.1	$475,000	$525,000
June 10, 1971	5.3	950,000	1,200,000
Jan. 1, 1974	5.0	800,000	675,000
Total		2,225,000	2,400,000

Assume that the issue of December 13, 1969, is an issue of taxable industrial development bonds. City C may allocate its acquired obligations using any method it chooses. For January 1, 1978, city C chooses to allocate its acquired obligations as follows:

ACQUIRED OBLIGATIONS

	Cost of acquired obligations	Yield	Allocated to issue of May 6, 1970	Allocated to issue of June 10, 1971	Allocated to issue of Jan. 1, 1974
	$2,500,000	8.0			
	500,000	4.0			$500,000
	250,000	0	$250,000		
	1,000,000	7.5	275,000		
	1,000,000	5.0		$1,000,000	
	500,000	5.3		200,000	175,000
	125,000	7.0			
Total	5,875,000		525,000	1,200,000	675,000

City C also allocates $2,225,000 of acquired obligations to the $2,225,000 in proceeds of issues which may be used to acquire materially higher yield acquired obligations. The $250,000 acquired obligation allocated to the May 6, 1970, issue is a non-interest-bearing cash deposit which the city maintains as a replacement fund for the project which was constructed with the proceeds of that issue. It is unnecessary to make any further allocations because the obligations issued on March 5, 1955, are not subject to the provisions of section 103(d), since they were not issued after October 9, 1969, and the obligations issued December 13, 1969, are taxable industrial development bonds. Pursuant to the January 1, 1978, allocation, city C determines that the yield on acquired obligations allocated to the allocable proceeds of each outstanding issue which may be used to acquire obligations that do not have a materially higher yield is not materially higher than the yield of each such issue.

§ 1.103-14 Temporary investments.

(a) *Temporary investments.*—(1) *In general.*—Under section 103(d)(4)(A), an obligation shall not be treated as an arbitrage bond solely by reason of the fact that all or a portion of the proceeds of the issue of which such obligation is a

part may be invested in materially higher yield acquired obligations for a temporary period until such time as such proceeds are used for the purpose for which such obligations were issued. Thus, the investment for such temporary period of the proceeds of an issue of governmental obligations in acquired obligations which produce a yield materially higher than the yield produced by such issue of governmental obligations will not cause such governmental obligations to be treated as arbitrage bonds. See paragraph (d) of this section for rules with respect to a reasonably required reserve, and see § 1.103–13(b)(1) for rules relating to the major portion test.

(2) *Rule in case of multiple purpose issues.*—In the case of an issue of governmental obligations issued to finance two or more projects with respect to which the temporary periods provided under this section are different, the portion of the proceeds of such governmental obligations to be used to finance each such project or projects shall be treated as a separate issue of governmental obligations for purposes of determining the temporary period requirements with respect to such project.

(3) *Definition of "project."*—For purposes of this section, the term "project" means any governmental purpose financed by the issue of governmental obligations. Such purpose does not include the investment of the proceeds of such issue in acquired nonpurpose obligations.

(b) *Temporary period.*—(1) *In general.*—Original proceeds and investment proceeds of an issue of governmental obligations that are invested in acquired obligations during a 3-year period (or the period determined under paragraph (b)(5) of this section) beginning on the date of issue are invested for a temporary period if the requirements of paragraph (b)(2), (3), and (4) of this section are satisfied. See paragraph (b)(6) and (7) for rules relating to temporary periods for investment proceeds and indirect proceeds.

(2) *Expenditure test.*—(i) An amount equal to 85 percent of spendable proceeds must be expended on the project or projects by the end of the period described in paragraph (b)(1) of this section which applies to the issue.

(ii) In the case of an election under § 1.103–13(b)(5)(i)(B) (relating to materially higher), 85 percent of spendable proceeds must be expended on the project or projects by the end of the 3-year period beginning on the date of issue and an amount equal to 95 percent of spendable proceeds must be expended on the project or projects by the end of the 4-year period beginning on the date of issue.

(iii) The term "spendable proceeds" means, in respect of an issue of governmental obligations, the original proceeds described in paragraph (b)(2)(i) of § 1.103–13 minus the sum of (A) the amount of any reasonably required reserve or replacement fund for the issue (within the meaning of paragraph (d) of this section), (B) the excess of the amount of any original proceeds which, if invested, would be treated as less than a major portion of the proceeds (within the meaning of paragraph (b)(1) of § 1.103–13) over the amount determined under paragraph (b)(2)(iii)(A) of this section, and (C) the amount of any original proceeds expended within the temporary period (or the periods described in paragraph (b)(2)(ii) of this section) in payment of the debt service (i.e., principal, interest, or both) on such issue of governmental obligations to the holders of such obligations (as contracted to a sinking fund payment).

(3) *Time test.*—Within 6 months after the date of issue of the governmental obligations, the State or local governmental unit must incur a substantial binding obligation to commence or acquire the project or projects, whether or not identified on the date of issue, to be financed by the issue. If, however, there are good business reasons, other than arbitrage profit, for the issuer to delay incurring such substantial binding obligation, then the issuer may have a longer period, not to exceed a 1-year period from the date on which such governmental obligations are issued. A substantial binding obligation to commence exists on the date on which the issuer incurs a binding obligation to a third party involving a substantial expenditure for some part of the project, such as, for example, architectural or engineering services, land acquisition, site development, construction materials, or the purchase of equipment for the project, or, in the case of services, commits itself to make an equivalent expenditure for similar services by employees of the issuer. A contract or commitment for services which otherwise meets the requirements of this subparagraph shall be considered binding notwithstanding that it is to be performed in several stages, each subsequent stage being conditioned on a new clearance. A binding obligation to expend the lesser of (i) an amount equal to 2½ percent of that portion of the estimated total project cost financed by the issue of governmental obligations and by prior issues, or (ii) $100,000 shall be substantial.

(4) *Due diligence test.*—After a substantial binding obligation to acquire or commence the project or projects is incurred (as described in paragraph (b)(3) of this section), work on or acquisition of the project or projects must proceed with due diligence to completion.

(5) *Exception.*—(i) If investments of proceeds do not qualify as investments for a temporary period because the requirement of paragraph (b)(2)(i) of this section (relating to the expenditure test) is not satisfied, such investments shall nevertheless be considered to be for a temporary period if prior to the issuance of the governmental obligations the issuer demonstrates to the satisfaction of the Commissioner that, on the basis of facts, estimates and circumstances in existence on the date of such issue, a longer temporary period is necessary.

(ii) In the case of an issue of governmental obligations issued to finance a construction project, if investments of proceeds do not qualify as investments for a temporary period because the requirement of paragraph (b)(2)(i) of this section (relating to the expenditure test) is not satisfied, such investments shall nevertheless be considered to be for a temporary period if the issuer certifies under § 1.103–13(a)(2)(ii) that on the basis of the facts, estimates, and circumstances in existence on the date of issue, a longer temporary period not exceeding a 5-year period beginning on the date of issue is necessary. Such certificate shall be accompanied by a statement of an engineer or architect specifying that such longer period is necessary and the reasons therefor, including a statement of the estimated time required for each major category of the work and the sequence thereof (including the extent to which each such category is to be carried out concurrently with other categories). The engineer's or architect's statement may be in tabular or chart form. Examples of major work categories are: Preliminary planning and design; obtaining required approvals; property acquisition (including relocation of prior occupants); final design; preparation, letting, and execution of contracts; site preparation (including removal of preexisting structures); excavation; foundations; erection of structures; finishes; and final payments after completion. For purposes of the certification required under § 1.103–13(a)(2)(ii) (A) and (B), the engineer's or achitect's statement shall be considered to be a part of the certification which must be reviewed by counsel.

(6) *Investment proceeds.*—Investment proceeds of an issue of governmental obligations that are invested during the period described in paragraph (b)(1) of this section or during a 1-year period beginning on the date of the receipt of such investment proceeds are invested for a temporary period.

(7) *Indirect proceeds.*—Indirect proceeds of an issue of governmental obligations that are invested during a 6-month period beginning on the date of receipt of such indirect proceeds are invested for a temporary period.

(c) *Tax and other revenue anticipation notes.*—(1) *In general.*—In the case of an issue of obligations issued in anticipation of taxes or other revenues, proceeds that are invested are an investment for a temporary period if such obligations—

(i) Will not be outstanding after (A) a period ending 13 months after the date on which such obligations are issued, or (B) a period ending 60 days (but not more than 24 months after such obligations are issued) after the last date for payment without interest or penalty of the anticipated tax (or last installment thereof) imposed by an annual tax levy or the first year's tax (or last installment thereof) of the anticipated tax imposed by a levy for more than 1 year, or (C) in the case of obligations issued in anticipation of governmental grants or advances and not in anticipation of taxes or revenues from other sources, a

period ending 6 months after the date on which the issuer expects to receive such grants or advances (but not more than 30 months after such obligations are issued), and

(ii) Will not be issued in an amount greater than the maximum anticipated cumulative cash flow deficit to be financed by such anticipated tax or other revenue sources for the period for which such taxes or other revenues are anticipated and during which such obligations are outstanding.

(2) *Cumulative cash flow deficit.*—For purposes of this subparagraph, the cumulative cash flow deficit at any time during a period is an amount equal to:

(i) The amount that the issuing State or local governmental unit will expend from the beginning of such period to such computation date to pay expenditures which would ordinarily be paid out of or financed by the anticipated tax or other revenues, plus

(ii) The amount reasonably required by the issuer as a cash balance on hand at all times (the amount of the anticipated expenditures for a period of 1 month from such time being deemed to be reasonably required for this purpose), minus

(iii) The sum of the amounts (other than the proceeds of the anticipated tax or other revenues in question), whether in the form of cash, marketable securities, or otherwise which will be available for the payment of such expenditures from the beginning of such period to such time.

(3) *Amount available for payment.*—For purposes of paragraph (b)(2)(iii) of this section, amounts in accounts will be considered to be available for the payment of such expenditures to the extent that such accounts may, without legislative or judicial action, be invaded to pay such expenditures without a legislative, judicial, or contractual requirement that such accounts be reimbursed.

(4) *Example.*—The following example illustrates the provisions of this paragraph:

Example.—County B plans to issue 13-month tax anticipation notes on July 1, 1971, in anticipation of income tax revenues in the amount of $4 million to be received on March 1, 1972, and real property tax revenues in the amount of $8 million to be received on May 1, 1972. Assume that all receipts will be received on the first day of each month. The maximum amount of such notes which may be issued pursuant to the provisions of subparagraph (3) of this paragraph may be determined in accordance with the following table on the basis of the facts assumed:

	Estimated expenditures	Estimated receipts [1]	Cumulative surplus (or deficit) at end of month [2]
June			$2,000,000
July	$750,000	$40,000	1,290,000
August	900,000	36,450	426,450
September	1,100,000	32,132	(641,418)
October	1,250,000	26,782	(1,864,636)
November	1,000,000	20,576	(2,844,060)
December	800,000	15,779	(3,627,281)
January	1,100,000	11,358	(4,716,000)
February	1,280,994	6,417	(6,000,000)
March	1,000,000	4,020,000	(2,980,000)
April	1,535,100	15,100	(4,500,000)
May	975,000	8,475,000	3,000,000
June	1,515,000	15,000	1,500,000

[1] Tax receipts plus proceeds from investments.

[2] Does not include amount of reasonably required cash balance.

The maximum cumulative deficit is $7 million which occurs at the end of February (i.e., $6 million cumulative deficit at the end of February plus $1 million reasonably required as a cash balance on hand (the amount of the anticipated expenditures for March)). Thus, an investment of the proceeds of the County B notes will be an investment for a temporary period if such notes are not issued in an amount in excess of $7 million.

(d) *Reasonably required reserve or replacement fund.*—(1) *In general.*—Under section 103(d)(4)(B), an obligation shall not be treated as an arbitrage bond solely by reason of the fact that a portion of any proceeds of the issue of which such obligation is a part may be invested in materially higher yield acquired obligations which are part of a reasonably required reserve or replacement fund. As a general rule, a reserve or replacement fund will be considered to be reasonably required only if the amount so invested at any time during the term of the issue does not exceed an amount equal to the lesser of (i) 15 percent of the original face amount of the issue, or (ii) the sum of 5 percent of the original face amount of the issue plus the lesser of (A) 1½ times an amount equal to 1 year's debt service on the issue on an assumed level annual debt service schedule over the term of the issue, or (B) an amount equal to the maximum annual debt service on the issue. If the original proceeds of an issue (determined without regard to issuing expenses) are less than 98 percent of the original face amount of such issue, then the percentage under paragraph (d)(1)(i) and (ii) of this section shall be based on the amount of such original proceeds.

(2) *Exception.*—If an amount in excess of the amount provided in paragraph (d)(1) of this section is to be invested in a reserve or replacement fund, such excess will not be considered to be invested in a reasonably required reserve or replacement fund unless the State or local governmental unit seeking to issue such obligations establishes to the satisfaction of the Commissioner, prior to the issuance of such governmental obligations, that the specified reserve or replacement fund is necessary.

(3) *Relationship to major portion test.*—To the extent that proceeds of an issue of governmental obligations are invested at a materially higher yield in a reasonably required reserve or replacement fund, such proceeds are included as proceeds invested in materially higher yield acquired obligations for purposes of the major portion test in § 1.103-13(b)(1). Thus, if the sum of the proceeds invested in materially higher yield acquired obligations equals the maximum investment permitted under this paragraph, then the investment of any other proceeds in materially higher yield acquired obligations may cause the obligations of such issue to be arbitrage bonds.

[FR Doc.73-8575 Filed 4-27-73;4:17 pm]

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

[7 CFR Part 1701]

REA SPECIFICATIONS FOR RURAL TELEPHONE FACILITIES

Proposed Addendum to REA Forms 511 and 511a, Telephone System Construction Contract

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.) and the Rural Development Act of 1972 (Public Law 92-419), REA proposes to issue file with REA Bulletin 383-1 to announce an addendum to REA Forms 511 and 511a. On issuance of file with REA Bulletin 383-1, appendix A, to part 1701 will be modified accordingly.

Persons interested in the addendum may submit written data, views, or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than June 4, 1973. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

A copy of the addendum to REA Forms 511 and 511a may be secured in person or by written request from the Director,

Telephone Operations and Standards Division.

The text of the file with REA Bulletin 383–1 announcing the issuance of the addendum is as follows:

FILE WITH REA BULLETIN 383–1

SUBJECT: Addendum to the telephone system construction contract, REA Forms 511 and 511a

We have considered it desirable in the interest of our borrowers to add new assembly units (BDF series) in the telephone system construction contract, forms 511 and 511a, for buried plant housings intended for use with filled cables. The new assembly units are the same as the present assembly units (BD series) except for a change in the material requirements. The new units will include the installation of a conductor bundle cover but will not require moisture blocks.

There are several advantages, especially with regard to the protection of the filled cable loops within housings through the use of the conductor bundle cover. The function of the cover is to decrease the temperature around the conductors thus improving their resistance to insulation failure (cracking). It will also protect the grease-covered conductors from dust and insects as well as provide for ease of splicing.

The description of the new assembly units, new assembly unit drawings as well as the proposal sheet are enclosed. These sheets shall be incorporated in the preparation of plans and specifications for telephone projects bid after June 15, 1973. This is not intended to restrict the use of this addendum before the effective date if desired.

The enclosed sheets are to be inserted in the appropriate places of REA Forms 511 and 511a. These sheets are as follows:

Form 511	*Form 511a*
New page 11A-----	New page 2A, two new assembly unit drawings.

Copies of the enclosed sheets are available upon request from the Outside Plant Branch of the Telephone Operations and Standards Division.

Dated April 27, 1973.

DAVID A. HAMIL,
Administrator.

[FR Doc.73–8765 Filed 5–2–73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 45]

MARGARINE: LABEL STATEMENT OF OPTIONAL INGREDIENTS

Proposal To Amend Standards of Identity

The Food and Agriculture Organization/World Health Organization (FAO/WHO) Codex Alimentarius Commission has submitted to the United States for consideration for acceptance a "Recommended International Standard for Margarine". The United States, as a member of the Food and Agriculture Organization of the United Nations and of the World Health Organization is under obligation to consider all Codex standards. The rules of procedure of the Commission state that a Codex standard may be accepted by a participating country in one of three ways: Full acceptance; target acceptance; and acceptance with minor deviations. A participating country which concludes that it cannot accept the standard in any of these ways is requested to indicate the reasons for the ways in which its requirements differ from the Codex standard. Members of the Commission are requested to notify the Secretariat of the Codex Alimentarius Commission—Joint FAO/WHO Food Standards Programme, FAO, Rome, Italy of their decision.

For many years the United States has had a definition and standard of identity for margarine (21 CFR 45.1) and for liquid margarine (21 CFR 45.2), as promulgated by the Commissioner of Food and Drugs, which differs in several respects from the recommended international standard. In the opinion of the Commissioner of Food and Drugs, it will promote honesty and fair dealing in the interest of consumers and facilitate international trade to adopt, as far as practicable the "Recommended International Standard for Margarine", hereinafter referred to as the Codex standard.

The Codex standard lists permitted food additives and color additives. In view of the separate food additive and color additive provisions contained in sections 409 and 706 of the Federal Food, Drug, and Cosmetic Act, listing of all permitted ingredients is unnecessary in the food standards promulgated under section 401 of the act. Accordingly, the Commissioner proposes to permit safe and suitable ingredients or classes thereof with an accompanying definition of "safe and suitable".

In the absence of toxicological data establishing the safety of fish oils to be used as an edible fat or oil, the Commissioner proposes that edible fats and oils of marine origin, as provided for in the Codex standard, not be permitted in the amended United States standard for margarine.

The Codex standard also includes hygiene requirements and certain basic labeling requirements that are not considered a part of food standards under section 401 of the Federal Food, Drug, and Cosmetic Act which is the legal basis for the promulgation of food standards. Hygiene and the other factors are, however, a concern of the Food and Drug Administration under other sections of the Federal Food, Drug, and Cosmetic Act and therefore are not discussed further in this proposal.

Inasmuch as the definition for margarine (or oleomargarine) in this proposal also includes margarine (or oleomargarine) in liquid form and there being no separate Codex standard for the food in liquid form, the Commissioner proposes that the identity standard for liquid oleomargarine, liquid margarine, 21 CFR 45.2, be deleted. The proposed amendment of the U.S. standards of identity for margarine, published below, is based upon consideration of the following Codex standard, comments, and supporting data received from industry representatives.

[CAC/RS 32–1969]

RECOMMENDED INTERNATIONAL STANDARD FOR MARGARINE

1. SCOPE

This standard will not apply to any product which contains less than 80 percent fat and is not labeled in any manner which implies, either directly or indirectly, that the product is margarine.

2. DESCRIPTION

2.1 *Product definition.*

Margarine is a food in the form of a plastic or fluid emulsion, which is mainly of the type water/oil, produced principally from edible fats and oils, which are not or are not mainly derived from milk.

2.2 *Other definitions.*

2.2.1 Edible fats and oils means foodstuffs composed of glycerides of fatty acids of vegetable, animal or marine origin. Fats of animal origin must be produced from animals in good health at the time of slaughter and be fit for human consumption as determined by a competent authority recognized in national legislation. They may contain small amounts of other lipids such as phosphatides, of unsaponifiable constituents and of free fatty acids naturally present in the fat or oil.

2.2.2 Pre-packed means packed or made up in advance, ready for retail sale in a container.

3. ESSENTIAL COMPOSITION AND QUALITY FACTORS

3.1 *Raw materials.*

3.1.1 Edible fats and/or oils, or mixtures of these, whether or not they have been subjected to a process of modification.

3.1.2 Water and/or milk and/or milk products.

3.2 *Minimum fat content*—80 percent m/m of the product.

3.3 *Maximum water content*—16 percent m/m of the product.

3.4 *Additions.*

The following substances may be added to margarine:

3.4.1 Vitamins:
Vitamin A and its esters.
Vitamin D.
Vitamin E and its esters.
Other vitamins.
Maximum and minimum levels for Vitamins A, D and E and other Vitamins should be laid down by national legislation in accordance with the needs of each individual country including, where appropriate, the prohibition of the use of particular Vitamins.

3.4.2 Sodium chloride.

3.4.3 Sugars.[1]

3.4.4 Suitable edible proteins.

4. FOOD ADDITIVES

	Maximum level of use
4.1 *Colours.*	
4.1.1 Beta-carotene ----------	Not limited.
4.1.2 Annatto (*)----------	Not limited.
4.1.3 Curcumin (*)----------	Not limited.

(*) Temporarily endorsed.

[1] Sugars means any carbohydrate sweetening matter.

	Maximum level of use
4.1.4 Canthaxanthine	Not limited.
4.1.5 Beta-apo-8'-carotenal.	
4.1.6 Methyl and ethyl esters of Beta-apo-8'-carotenoic acid.	Not limited.
4.2 *Flavours.*	
4.2.1 Natural flavours and their identical synthetic equivalents, except those which are known to represent a toxic hazard (*).	Not limited.
4.2.2 Other synthetic flavours approved by the Codex Alimentarius Commission (*).	Not limited.
4.3 *Emulsifiers.*	
4.3.1 Mono- and diglycerides of fatty acids.	Not limited.
4.3.2 Mono- and diglycerides of fatty acids esterified with the following acids: Acetic, acetyltartaric, citric, lactic, tartaric, and their sodium and calcium salts.	10 g/kg.
4.3.3 Lecithins and components of commercial lecithin.	Not limited.
4.3.4 Polyglycerol esters of fatty acids.	5 g/kg.
4.3.5 1,2-propylene glycol esters of fatty acids.	20 g/kg.
4.3.6 Esters of fatty acids with polyalcohols other than glycerol: Sorbitan monopalmitate. Sorbitan monostearate. Sorbitan tristearate.	10 g/kg.
4.3.7 Sucrose esters of fatty acids (including sucroglycerides) (*)	10 g/kg.
4.4 *Preservatives.*	
4.4.1 Sorbic acid and its sodium, potassium and calcium salts.	1000 mg/kg, individually or in combination, expressed as the acids.
4.4.2 Benzoic acid and its sodium and potassium salts.	
4.5 *Antioxidants.*	
4.5.1 Propyl, octyl, and dodecyl gallates.	100 mg/kg, individually or in combination.
4.5.2 Butylated hydroxytoluene (BHT), Butylated hydroxyanisole (BHA).	
4.5.3 Natural and synthetic tocopherols.	Not limited.
4.5.4 Ascorbyl palmitate	200 mg/kg, individually or in combination.
4.5.5 Ascorbyl stearate	
4.6 *Antioxidant synergists.*	
4.6.1 Isopropyl citrate mixture.	100 mg/kg.
4.7 *Other additives.*	
4.7.1 Citric and lactic acids and their potassium and sodium salts.	Not limited.
4.7.2 L-tartaric acid and its sodium and sodium-potassium salts.	Not limited.
4.7.3 Sodium hydrogen carbonate, sodium carbonate, sodium hydroxide.	Not limited.

(*) Temporarily endorsed.

(*) Temporarily endorsed.

5. CONTAMINANTS

	Maximum level
5.1 Iron (Fe)	1.5 mg/kg.
5.2 Copper (Cu)	0.1 mg/kg.
5.3 Lead (Pb)	0.1 mg/kg.
5.4 Arsenic (As)	0.1 mg/kg.

6. HYGIENE

It is recommended that the product covered by the provisions of this standard be prepared in accordance with the appropriate Sections of the General Principles of Food Hygiene recommended by the Codex Alimentarius Commission (Ref. No. CAC/RCP 1-1969).

7. PACKAGING

Margarine when sold by retail shall be prepacked and may be sold in a pack of any shape.

8. LABELLING

In addition to Sections 1, 2, 4, and 6 of the General Standard for the Labelling of Prepackaged Foods (Ref. CAC/RS 1-1969) the following specific provisions apply:

8.1 *The Name of the Food.*

The product shall be designated margarine and all products designated as margarine shall conform to this standard.

8.2 *List of ingredients.*

A complete list of ingredients shall be declared on the label in descending order of proportion in accordance with sub-sections 3.2(c) of the General Standard for the Labeling of Pre-packaged Foods.

8.3 *Net contents.*

The net contents shall be declared by weight in either the metric ("Système International" units) or avoirdupois or both systems as required by the country in which the product is sold.

8.4 *Name and address.*

The name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the product shall be declared.

8.5 *Country of origin.*

8.5.1 The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

8.5.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labeling.

8.6 *Labeling prohibitions.*

8.6.1 No reference shall be made to the presence of milk fat or butter in margarine except in a complete list of ingredients.

8.6.2 No reference shall be made, other than in a complete list of ingredients, to the presence of any vitamin in margarine unless the name and quantity of the vitamin is stated on the label.

In many respects the provisions of the present U.S. standards and the Codex standard are identical, but in certain instances there are significant variations. The following is a comparison of what, in the opinion of the Commissioner, are the primary differences between the U.S. standards and the Codex standard on which the Commissioner particularly requests comments with available supporting data. Following each item of comparison is the action the Commissioner proposed to take in the event no comments are received.

COMPARISON OF IDENTITY CRITERIA AND PROPOSED COURSE OF ACTIONS

1. *Product description*—(a) *Food form and name of the food.*—The FDA regulations use the forms of the food, plastic and liquid emulsion, to establish separate identity standards for margarine in 21 CFR 45.1(a) and for liquid margarine in 21 CFR 45.2(a), respectively. The Codex standard in 2.1 does not separately define both forms of the food. The Commissioner proposes to delete the identity standard for liquid margarine, 21 CFR 45.2, and to provide for the liquid emulsion as part of the definition of margarine to promote uniformity. The Commissioner further proposes to provide for the label declaration of the food name liquid margarine or liquid oleomargarine when such a form is used.

(b) *Method of analysis and sampling.*—21 CFR 45.1(a)(3) states that the fat content be determined according to the "Official Methods of Analysis of the Association of Official Agricultural Chemists" (AOAC), seventh edition. (This is now the "Official Methods of Analysis of the Association of Official Analytical Chemists".) The Codex standard references the 10th edition of the AOAC. The Commissioner proposes that the FDA standard be updated to reference the 11th edition of the AOAC.

(c) *Milkfat and/or butter oil.*—21 CFR 45.1(a)(1)(i) does not provide for the use of animal fats and/or oils derived from milk as part of the animal fat ingredient; however, 21 CFR 45.1(a)(3)(vi) does permit the use of butter as an optional ingredient. The Codex standard in 2.1 provides for edible fats and oils which are not or are not mainly derived from milk. The Commissioner proposes to clarify this distinction in the use of milkfat, butter or butter oil by including them in the aqueous phase ingredient, water and/or milk and/or milk products, which are combined with the rendered animal fat and/or oil ingredient.

(d) *Physical health of animals.*—The Codex standard in 2.2.1 requires the inspection of animals used for animal fats and oils to ascertain their physical health and fitness for human consumption at the time of slaughter. The Commissioner proposes no change, since this requirement is covered by section 402 of the Federal Food, Drug, and Cosmetic Act and by 21 CFR 10.1(c) in regard to all food standards.

(e) *Modification of fat ingredients.*—21 CFR 45.1(a)(1)(i) and (ii) permit the optional hydrogenation of any or all of the fat ingredients used. The Codex standard in 3.1.1 allows the optional use of a process of modification for the edible fats and/or oils used. The Commissioner proposes to change the FDA standard to allow the optional application of an accepted process of physicochemical modification (i.e., hydrogenation and/or interesterification) in order to provide greater flexibility in the manufacture of the product.

(f) *Marine fats and/or oils.*—The FDA standard does not allow the use of edible fats and/or oils of marine origin in margarine or oleomargarine; whereas the Codex standard does in 2.2.1. The Commissioner proposes no change, in view of the absence of toxicological data establishing the safety of fish oils for use as edible fats or oils.

(g) *Proportionality of fat or oil ingredients.*—21 CFR 45.1(a) (i), (iii), and (iv) provide that certain ratios be maintained when animal fats and/or oils and vegetable fats and/or oils are mixed together and are used, and in no case may the ratios exceed 9 to 1. The Codex standard has no such provision. The Commissioner is of the opinion that these proportionality requirements may no longer be significant for the consumer with the improved technology used with animal fats. In view of this development and to avoid recipe-type standards whenever possible, the Commissioner proposes to delete these proportionality requirements.

(h) *Maximum water content.*—21 CFR 45.1 does not provide for a maximum water content; whereas the Codex standard in 3.3 limits the amount of water used to 16 percent by weight of the product. Excess water in margarine appears to be self-limiting in the light of a minimum 80-percent fat requirement and the need for other additional optional ingredients in the aqueous phase. The Commissioner has no information that the provision would promote honesty and fair dealing in the interest of consumers or would enhance the product.

(i) *Definition of milk.*—21 CFR 45.1 defines milk as cow's milk and does not provide for milk from other animals. The Codex standard has no definition. The Commissioner proposes to retain the present definition of milk. The Commissioner further proposes that when milk other than cow's milk is used in whole or in part, the animal source shall be identified in the ingredient statement to better inform the consumer.

(j) *Suitable edible proteins.*—21 CFR 45.1(a) (2) (viii) provides for the use of finely ground soybeans and water only in conjunction with the vegetable fat ingredients and only when milk ingredients are not used. The Codex standard in 3.4.4 provides for suitable edible proteins without restriction as to the fat ingredients used. The Commissioner proposes to amend the FDA standard to permit the use of any suitable edible protein without regard to the fat ingredient used.

(k) *Pasteurization and use of bacterial starters.*—21 CFR 45.1(a) (2) requires that the milk ingredients used in connection with the fat ingredients be pasteurized and then may be subjected to the action of harmless bacterial starters. The Codex standard does not mention pasteurization or the use of bacterial starters. The Commissioner is of the opinion that it would not promote honesty and fair dealing in the interest of consumers to delete the present provisions, and therefore proposes no change.

(l) *Listing of milk products.*—21 CFR 45.1(a) (2) (i) to (vii) lists the milk products permitted in combination with the optional fat ingredients. The Codex standard in 3.1.2 provides for "water and/or milk and/or milk products". The Commissioner proposes to adopt the Codex language to provide greater flexibility in the use of milk products.

2. *Optional ingredients.*—(a) *Artificial coloring, acidulants, and alkalizers.*—The FDA standard provides for the optional use of artificial coloring, including provitamin A, in 21 CFR 45.1(a) (3) (i) and citric acid in 21 CFR 45.1(a) (3) (viii), which may be incorporated into the fat ingredient. The Codex standard in 4.1 to 4.1.6 lists the coloring additives permitted and in 4.7.1 to 4.7.3 lists the acidulants and alkalizers allowed. In view of the separate color and food additive provisions of sections 706 and 409 of the Federal Food, Drug, and Cosmetic Act, the separate listing of all such ingredients is unnecessary in food standards promulgated under section 401 of the act. Accordingly, the Commissioner proposes to permit safe and suitable ingredients or classes thereof. The customary definition of safe and suitable is added separately to 21 CFR 10.1 which will be applicable to all food standards.

(b) *Preservatives, emulsifiers.*—21 CFR 45.1(a) (3) (ii), (a) (3) (ix) through (a) (3) (xiii), and (a) (3) (v) provides for specific preservatives and emulsifiers with stated tolerances. The Codex standard in 4.1.2, 4.4.2, 4.5.1 through 4.5.5 and 4.3.1 through 4.3.7 list additional preservatives and emulsifiers with stated tolerances. The Commissioner proposes to allow any safe and suitable preservative and emulsifier.

(c) *Artificial flavoring.*—21 CFR 45.1 (a) (3) (iv) permits the optional use of any safe and suitable artificial flavoring substance which imparts to the margarine a flavor in semblance of butter. The Codex standard in 4.2.1 and 4.2.2 allows the use of natural flavors and their identical synthetic equivalents, except those known to represent a toxic hazard, and other synthetic flavors approved by the Codex Alimentarius Commission. The Commissioner proposes that any margarine flavored other than in semblance of butter shall be labeled with the characterizing flavor as part of the name of the food as provided in 21 CFR 1.12.

(d) *Vitamins.*—21 CFR 45.1(a) (3) (iii) provides for the optional use of vitamin A, with or without vitamin D, in not less than 15,000 USP units per pound as well as its sources. The Codex standard in 3.4.1 permits the use of vitamin A and its esters, vitamin D, vitamin E and its esters, and other vitamins in maxima and minima which are to be established by the individual countries, including the prohibition of certain vitamins where appropriate. In view of the current fortification practices for staple foods in the United States, the Commissioner proposes the mandatory addition of vitamin A in an amount not less than 15,000 International Units per pound. He further proposes that vitamin D may be added in an amount not less than 1,500 International Units per pound, and that vitamin E and its esters not be added to margarine.

(e) *Nutritive sweeteners.*—The present FDA standard has no provision for nutritive sweeteners. The Codex standard in 3.4.3 permits the optional use of any carbohydrate sweetening matter. In order to provide a greater variety of products available to the consumer, the Commissioner proposes to permit the optional use of nutritive sweeteners.

3. *Contaminants.*—21 CFR 45.1 does not provide for tolerances for contaminating material. The Codex standard in 5.1 through 5.4 lists a maximum level for each of the elements, iron (Fe), copper (Cu), lead (Pb), and arsenic (As). These elements, as well as others not mentioned, occur naturally and in varying amounts in milk and fat ingredients. They are regarded as contaminants rather than as factors of identity or quality. As contaminants, they are dealt with under the adulteration provisions of the act rather than under section 401. Accordingly, the Commissioner proposes that a listing of maximum levels for the trace elements be omitted from the proposed FDA standard.

4. *Name of the food.*—(a) *Declaration of fat ingredient.*—21 CFR 45.1(b) (1) states that the fat ingredients used shall be declared first in the ingredient statement by the name of the specific fat or oil or sterain used. When combinations of fat ingredients are used, the names of the fats shall appear in the decreasing order of predominance. When the fat is hydrogenated, the ingredient statement shall bear the word hydrogenated or hardened. The Codex standard has no specific provision for the fat declaration. However, the Codex "General Standard for the Labeling of Prepackaged Foods," 3.2(c) (1), provides for the declaration of the respective classes of fats used. The Commissioner proposes to change, because Public Law 459, 81st Congress, requires in the case of colored oleomargarine a full and accurate declaration of all ingredients in such oleomargarine.

(b) *Declaration of BHA and BHT.*—21 CFR 45.1(b) (1) states that BHA and/or BHT shall be declared as with ------ added as (a) preservative(s) or with ------ added to retard rancidity, the blank filled with "BHA" and/or "BHT" as the case may be. The Codex standard requires the complete listing of all ingredients in 8.2. The Commissioner proposes to delete the FDA provision and to require the declaration of "BHA" and/or "BHT" in the ingredient statement in accordance with the applicable sections of 21 CFR part 1.

(c) *Label declaration of ingredients.*—21 CFR 3.17 requires that all the ingredients used in colored oleomargarine shall be declared in conformity with Public Law 459, 81st Congress. The Codex standard in 8.2 requires the complete listing of all ingredients used. The Commissioner proposes no change, in that all

ingredients are to be listed by their common name in accordance with the applicable sections of 21 CFR part 1.

(d) *Artificial coloring.*—21 CFR 45.1 (b)(2)(ii) states that the artificial coloring ingredients used shall be declared by the statement artificially colored or artificial coloring added or with added artificial coloring. The Codex standard references the "General Standard for the Labeling of Prepackaged Foods," § 3.2(c), which states that colors shall be declared by the categorical name of colours. The Commissioner proposes to delete the provisions in 21 CFR 45.1(b)(2)(ii) and to provide for declaration of artificial coloring in accordance with 21 CFR 1.12.

(e) *Artificial flavoring.*—21 CFR 45.1 (b)(2)(iii) states that artificial flavorings used shall be declared by artificially flavored, artificial flavoring added or with added artificial flavoring. The Codex requires that the class name flavours be declared. The Commissioner proposes to delete the provisions in 21 CFR 45.1(b)(2)(iii) and to provide for declaration of artificial flavoring in accordance with 21 CFR 1.12.

(f) *Preservatives.*—21 CFR 45.1(b)(2)(iv) provides that when used citric acid, stearyl citrate, potassium sorbate, isopropyl citrate, or calcium disodium EDTA shall be declared as "_____ added as a preservative," or "With _____ added as a preservative." The Codex requirement is that the class designation "preservatives" appear on the label. The Commissioner proposes to delete 21 CFR 45.1(b)(2)(iv) and provide that any chemical that, when added to food, tends to prevent or retard deterioration thereof, shall be declared on the label in accordance with 21 CFR part 1.

(g) *Vitamins A and D.*—21 CFR 45.1 (b)(2)(v) requires that vitamin A shall be declared as "Vitamin A added" or "with added vitamin A." Vitamin D shall be declared as "Vitamin D added" or "With added vitamin D." The Codex standard requires that the common name of the vitamin be declared. The Commissioner has concluded that standardized foods, to which the addition of nutrients is optional or mandatory, should be labeled to comply with 21 CFR 1.17 (38 FR 6951) rather than the provisions of 21 CFR part 125, which has been the case in the past.

(h) *Combination of label declarations.*—21 CFR 45.1(b)(2)(vi) states that label declarations may be combined. The Codex standard has no such provision. The Commissioner proposes that the combination of label declarations be deleted from 21 CFR 45.1(b) in view of the provisions in 21 CFR part 1.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 1055, as amended by 70 Stat. 919; 21 U.S.C. 341, 371(e)) and in accordance with authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), the Commissioner proposes that 21 CFR 45.2 be deleted and that the existing oleomargarine, margarine standard of identity (21 CFR 45.1) be revised to provide for certain features, based on the Codex standard that would, in his opinion, promote honesty and fair dealing in the interest of consumers. Accordingly, it is proposed that part 45 be revised to read as follows:

PART 45—MARGARINE, OLEOMARGARINE

§ 45.1 Margarine, oleomargarine; identity; label statement of optional ingredients.

(a) Margarine (or oleomargarine) is the food in plastic form or liquid emulsion, containing not less than 80 percent fat determined by the method prescribed under section 16.163 of the "Indirect Method," in "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th edition 1970.[1] Margarine is produced from one or more of the optional ingredients in subparagraph (1) of this paragraph, and one or more of the optional ingredients in subparagraph (2) of this paragraph, to which may be added one or more of the optional ingredients in paragraph (b) of this section. Margarine contains vitamin A as provided for in subparagraph (3) of this paragraph.

(1) Edible fats and/or oils, or mixtures of these, whose origin is vegetable or rendered animal carcass fats, any or all of which may have been subjected to an accepted process of physico-chemical modification. They may contain small amounts of other lipids such as phosphatides, or unsaponifiable constituents and of free fatty acids naturally present in the fat or oil.

(2) One or more of the following aqueous phase ingredients:

(i) Water and/or milk and/or milk products.

(ii) Suitable edible protein including, but not limited to whey, whey modified by the reduction of lactose and/or minerals, nonlactose containing whey components, albumin, casein, caseinate, vegetable proteins, or soy protein isolate, in amounts not greater than reasonably required to accomplish the desired effect.

(iii) Any mixture of two or more of the articles named under subdivisions (i) and (ii) of this subparagraph.

(iv) The ingredients in subdivisions (i), (ii), (iii) of this subparagraph shall be pasteurized and then may be subjected to the action of harmless bacterial starters. One or more of the articles designated in subdivisions (i), (ii), (iii) of this subparagraph is intimately mixed with the edible fat and/or oil ingredients to form a solidified or liquid emulsion.

(3) Vitamin A in such quantity that the finished margarine contains not less than 15,000 international units per pound.

(b) Optional ingredients: (1) Vitamin D in such quantity that the finished oleomargarine contains not less than 1,500 international units of vitamin D per pound.

(2) Salt (sodium chloride); potassium chloride for dietary margarine or oleomargarine.

(3) Nutritive sweeteners.

(4) Any safe and suitable emulsifiers including but not limited to the following within these maximum amounts in percent by weight of the finished food: Mono- and diglycerides of fatty acids esterified with the following acids; acetic, acetyltartaric, citric, lactic, tartaric, and their sodium and calcium salts, 0.5 percent; such mono- and diglycerides in combination with the sodium sulfo-acetate derivatives thereof, 0.5 percent; polyglycerol esters of fatty acids, 0.5 percent; 1,2-propylene glycol esters of fatty acids, 2 percent; lecithin, 0.5 percent.

(5) Any safe and suitable preservatives including, but not limited to the following within these maximum amounts in percent by weight of the finished food: Sorbic acid, benzoic acid and their sodium, potassium, and calcium salts, individually or in combination, expressed as the acids, 0.1 percent; calcium disodium ethylenediaminetetraacetate (EDTA), 0.0075 percent; propyl, acetyl, and dodecyl gallates, butylated hydroxytoluene (BHT), butylated hydroxyanisole (BHA), ascorbyl palmitate, ascorbyl stearate, all individually or in combination, 0.02 percent; stearyl citrate, 0.15 percent; isopropyl citrate mixture, 0.02 percent.

(6) Any safe and suitable color additives. For the purpose of this subparagraph, provitamin A (beta-carotene) shall be deemed to be a color additive.

(7) Any safe and suitable flavoring substances. If the flavoring ingredients impart to the food a flavor other than in semblance of butter, the characterizing flavor shall be declared as part of the name of the food in accordance with § 1.12 of this chapter.

(8) Any safe and suitable acidulants.

(9) Any safe and suitable alkalizers.

(c) The name of the food for which a definition and standard of identity are prescribed in this section is margarine or oleomargarine. Margarine or oleomargarine in a liquid rather than a plastic form shall be declared as liquid margarine or liquid oleomargarine.

(d) All ingredients shall be declared on the label. For the purposes of this section the use of the term milk unqualified means milk from cows. If any milk other than cow's milk is used in whole or in part, the animal source shall be identified in conjunction with the word milk in the ingredient statement. The food shall be labeled as required by the applicable provisions of part 1 of this chapter. Colored margarine or colored liquid margarine shall be subject to the provisions of section 407 of the Federal Food, Drug and Cosmetic Act as amended.

Interested persons may, on or before June 4, 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 April 26, 1973.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.73-8632 Filed 5-2-73;8:45 am]

[1] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benajamin Franklin Station, Washington, D.C. 20044.

[21 CFR Part 191]

SELF-PRESSURIZED HOUSEHOLD PRODUCTS CONTAINING FLUOROCARBON PROPELLANTS

Proposed Declaration as Hazardous Substances Requiring Special Labeling; Proposed Exemption From Certain Requirements

In recent years the willful and dangerous practice of collecting the vapors of self-pressurized products and inhaling or sniffing them to produce intoxication has been widespread among youths. The practice started in 1967 with the tragic misuse of a product intended to frost or chill cocktail glasses and has since spread to the use of other self-pressurized products.

The Food and Drug Administration has received numerous reports of sudden death associated with the deliberate misuse by inhalation of household self-pressurized products that are subject to the Federal Hazardous Substances Act and that contain fluorocarbons as the propellant. Death may follow such inhalation suddenly without relation to the number of times the vapors are inhaled. The mechanism of death is unknown at this time and research thereon is continuing.

In addition, similar reports have been received concerning food, drug, and cosmetic aerosol products that are subject to the Federal Food, Drug, and Cosmetic Act and that contain halocarbons and hydrocarbons. These are the subject of the FEDERAL REGISTER notice of March 7, 1973 (38 FR 6191).

Propellants containing fluorocarbons currently used in household products do not appear to present a significant problem of safety resulting from normal usage of these products. The toxicity and possible death result solely from the misuse.

Based on the above information, the Commissioner of Food and Drugs finds that self-pressurized products with fluorocarbon propellants (1) are toxic by inhalation based on human experience and (2) have the capacity to produce personal injury and death to man through reasonably foreseeable handling and use. Although the deliberate misuse is not the intended use for these products, it has become sufficiently prevalent among youths to be considered reasonably foreseeable use.

The Commissioner finds that the labels of self-pressurized household products with fluorocarbon propellants should bear a warning against intentional inhalation. Admittedly, such warnings could lead persons who wish to inhale intoxicating substances directly to products that could be abused. A warning of the drastic consequences that can result from misuse, however, will at least deter the unknowledgeable experimenter from risking his life for a momentary thrill. No warning can protect those who intentionally indulge in practices they know to be harmful. Comment is therefore requested on two alternative forms of a deliberate inhalation warning, one proposed by the FDA and the other suggested by an industry trade association.

Section 2(p)(1)(B) of the Federal Hazardous Substances Act requires that a hazardous substance bear a label which states conspicuously the common or usual name or the chemical name (if there is no common or usual name) of the hazardous substance or of each component which contributes substantially to its hazard. The Commissioner finds that the label declaration of the particular fluorocarbon used as a propellant in a self-pressurized product would serve no useful purpose and that the label declaration of the chemical group, fluorocarbons, will be sufficient to satisfy the requirements of section 2(p)(1)(B).

Section 2(q)(1)(A)(i) of the act and § 191.62(d) provide for the exemption of an article from classification as a "banned hazardous substance", because the article's functional purpose requires inclusion of a hazardous substance, it bears labeling giving adequate directions and warnings for safe use, and it is intended for use by children who have attained sufficient maturity, and may reasonably be expected to read and heed such directions and warnings.

Propellants for self-pressurized products containing fluorocarbons do not present a problem of safety resulting from proper usage of these products. The Commissioner therefore concludes that exemption from section 2(q)(1)(A) of products which have no hazard other than being self-pressurized and containing a fluorocarbon propellant is consistent with the purposes of the act, if they are labeled in accordance with § 191.110.

Therefore, pursuant to provisions of the Federal Hazardous Substances Act (secs. 2(f)(1)(A), (B), (p)(1), (q)(1)(A)(i), 3(a), (b), (c), 74 Stat. 372, 374, 375, as amended, 80 Stat. 1304–1305; 15 U.S.C. 1261, 1262) and of the Federal Food, Drug, and Cosmetic Act (sec. 701(e), 52 Stat. 1055, as amended; 21 U.S.C. 371(e)), and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that part 191 be amended:

1. By adding to § 191.5 a new paragraph (a)(2), as follows:

§ 191.5 Products declared to be hazardous substances under section 3(a) of the act.

(a) * * *

(2) Fluorocarbons when used as propellants for self-pressurized products.

2. By adding to § 191.7 a new paragraph (b)(1), as follows:

§ 191.7 Products requiring special labeling under section 3(b) of the act.

* * * * *

(b) * * *

(1) *Fluorocarbon propellants.*—Because sudden death may follow the deliberate misuse by inhalation of self-pressurized products containing fluorocarbon propellants, containers of such products shall bear the statement "WARNING—Do not inhale directly; deliberate inhalation of contents can cause death" or "WARNING—Use only as directed; intentional misuse by deliberately concentrating and inhaling the contents can be harmful or fatal". This statement shall be in addition to any other required under the act or this part.

* * * * *

3. By adding to § 191.65 a new paragraph (a)(3), as follows:

§ 191.65 Exemptions from classification as banned hazardous substances.

(a) * * *

(3) Self-pressurized products containing fluorocarbon propellants provided that the product has no hazards other than being self-pressurized and containing a fluorocarbon propellant and is labeled in accordance with § 191.110.

* * * * *

4. By adding to § 191.110 a new paragraph (e), as follows:

§ 191.110 Self-pressurized containers; labeling.

* * * * *

(e) If the article contains a fluorocarbon propellant, it shall bear on its label the additional statement "WARNING—Do not inhale directly; deliberate inhalation of contents can cause death" or "WARNING—Use only as directed; intentional misuse by deliberately concentrating and inhaling the contents can be harmful or fatal" and "Contains fluorocarbons".

Interested persons may, on or before July 2, 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 April 26, 1973.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.73-8631 Filed 5-2-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 73-EA-24]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of part 71 of the Federal Aviation Regulations so as to alter the Syracuse, N.Y., control zone (38 FR 425) and transition area (38 FR 585).

A review of the airspace requirements for the Syracuse, N.Y., terminal area demonstrates a requirement to alter the control zone and transition area to provide controlled airspace pursuant to the criteria of terminal instrument procedures (TERP's).

Interested parties may submit such written data or views as they may desire. Communications should be submitted in

triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before June 4, 1973, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views 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 parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Syracuse, N.Y., proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of part 71, Federal Aviation Regulations so as to delete the description of the Syracuse, N.Y., control zone and substituting the following in lieu thereof:

SYRACUSE, N.Y.

Within a 5-mile radius of the center, latitude 43°06'50" N., longitude 76°06'35" W., of Syracuse Hancock International Airport extending clockwise from a 200° bearing to a 160° bearing from the airport; within a 6.5-mile radius of the center of the airport extending clockwise from 160° to a 200° bearing from the airport; within 2.5 miles each side of the Syracuse Hancock International Airport Runway 10 ILS localizer back course extending from the localizer to a point 5 miles west of the localizer and within 1.5 miles each side of the Syracuse VORTAC 300° radial extending from the 5-mile radius area to the VORTAC excluding that airspace within a 0.5-mile radius of the center 43°10'-45" N., 76°07'30" W. of Michael Field, Cicero, N.Y.

2. Amend § 71.181 of part 71, Federal Aviation Regulations so as to delete the description of the Syracuse, N.Y. 700-foot floor transition area and substituting the following in lieu thereof:

SYRACUSE, N.Y.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center latitude 43°06'50" N., longitude 76°06'35" W., of Syracuse Hancock International Airport extending clockwise from a 270° bearing to a 090° bearing from the airport; within a 16-mile radius of the center of the airport extending clockwise from a 090° bearing to a 270° bearing from the airport; within 9.5 miles north and 4.5 miles south of the Syracuse Hancock International Airport Runway 28 ILS localizer course extending from the OM to 18.5 miles east of the OM; within 9.5 miles north and 4.5 miles south of the Syracuse Hancock International Airport Runway 10 ILS localizer back course extending from the localizer to 26 miles west of the localizer; within 5 miles each side of the Syracuse VORTAC 283° radial extending from the VORTAC to a point 16 miles west of the VORTAC; and within 5 miles each side of the Syracuse VORTAC 242° radial extending from the VORTAC to a point 16 miles southwest of the VORTAC.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on April 18, 1973.

HARRY BERNARD,
Acting Director, Eastern Region.

[FR Doc.73-8611 Filed 5-2-73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 73-EA-28]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of part 71 of the Federal Aviation Regulations so as to alter the Weyers Cave, Va., control zone (38 FR 431) and transition area (38 FR 598).

A pending revision to the NDB runway 4 instrument approach procedure and a new ILS runway 4 instrument approach procedure for Shenandoah Valley Airport requires alteration of the control zone and transition area to provide additional controlled airspace to protect aircraft executing these procedures.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before June 4, 1973, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views 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 parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Weyers Cave, Va., proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of part 71 of the Federal Aviation Regulations by deleting in the description of the Weyers Cave, Va., control zone, the following: "3 miles each side of the 218° bearing and the 038° bearing from the Staunton LOM extending from the 5-mile radius zone to 8.5 miles southwest of the LOM." and by substituting the following in lieu thereof: "3.5 miles each side of the Shenandoah Valley Airport ILS localizer southwest course, extending from the 5-mile radius zone to 11.5 miles southwest of the OM."

2. Amend § 71.181 of part 71 of the Federal Aviation Regulations by deleting in the description of the Weyers Cave, Va., transition area, the following: "6.5 miles northwest of the 218° bearing from the Staunton LOM extending from the LOM to 11.5 miles southwest", and by substituting the following in lieu thereof: "9.5 miles northwest of the Shenandoah Valley Airport ILS localizer southwest course, extending from the localizer to 18.5 miles southwest of the OM."

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on April 19, 1973.

HARRY BERNARD,
Acting Director, Eastern Region.

[FR Doc.73-8614 Filed 5-2-73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 73-EA-29]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of part 71 of the Federal Aviation Regulations so as to alter the Roanoke, Va., control zone (38 FR 416) and transition area (38 FR 567).

A review of the terminal airspace requirements for the Roanoke, Va., terminal area indicates that we will require alteration of the control zone and transition area to provide controlled airspace for aircraft executing IFR departures and IFR arrival procedures in consonance with terminal instrument procedures (TERP's).

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before June 4, 1973, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, eastern region.

Any data or views 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 parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Roanoke, Va., proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of part 71 of the Federal Aviation Regulations by deleting the description of the Roanoke, Va., control zone and by substituting the following in lieu thereof:

Within a 7-mile radius of the center 37°19' 30'' N., 79°58'35'' W., of the Roanoke Municipal Airport, Roanoke, Va.; within an 8-mile radius of the center of the airport, extending clockwise from a 237° bearing to a 258° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 258° bearing to a 302° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 302° bearing to a 336° bearing from the airport; within a 9-mile radius of the center of the airport, extending clockwise from a 336° bearing to a 007° bearing from the airport and within 2.5 miles each side of the Roanoke Municipal Airport ILS localizer southeast course, extending from the localizer to 2 miles southeast of the OM.

2. Amend § 71.181 of part 71 of the Federal Aviation Regulations by deleting the description of the Roanoke, Va., transition area and by substituting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within an 18-mile radius of the center 37°19'30'' N., 79°58'35'' W., of Roanoke Municipal Airport, Roanoke, Va.; within a 23.5-mile radius of the center of the airport, extending clockwise from a 203° bearing to a 296° from the airport; within a 19.5-mile radius of the center of the airport, extending clockwise from a 296° bearing to a 307° bearing from the airport, excluding the portion within the Blacksburg, Va., transition area.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on April 19, 1973.

HARRY BERNARD,
Acting Director, Eastern Region.

[FR Doc.73-8615 Filed 5-2-73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 73-WE-9]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration is considering an amendment to part 71 of the Federal Aviation Regulations that would alter the description of the Chino, Calif., control zone.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received on or before June 4, 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 Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 15000 Aviation Boulevard, Hawthorne, Calif. 90261.

To provide controlled airspace protection for aircraft executing the instrument approach procedure while operating below 1,000 feet AGL a small control zone extension will be required. The VOR-1 instrument approach procedure is being amended in accordance with the U.S. standard for terminal instrument procedures (TERP's). The final approach course will be changed from 289° M (304° T) to 288° M (303° T).

In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.171 (38 FR 351) the description of the Chino, Calif., control zone is amended to read as follows:

CHINO, CALIF.

Within a 3-mile radius of Chino, Calif., Airport (lat. 33°58'30'' N., long. 117°38'10'' W.) and within 1.5 miles each side of the Ontario, Calif., VORTAC 303° radial, extending from the 3-mile radius area to 1 mile west of the VORTAC. This control zone shall be effective during the specific dates and times published in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

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

Issued in Los Angeles, Calif., on April 19, 1973.

ROBERT O. BLANCHARD,
Acting Director, Western Region.

[FR Doc.73-8616 Filed 5-2-73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 73-EA-25]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of part 71 of the Federal Aviation regulations so as to alter the Winchester, Va., transition area (38 FR 601).

A new VOR/DME instrument approach procedure developed for Winchester Municipal Airport, Winchester, Va., and a pending revision to the present VOR instrument approach procedure for the airport will require alteration of the Winchester, Va., transition area to provide the necessary controlled airspace to protect aircraft executing the procedures.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before June 4, 1973, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views 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 parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Winchester, Va., proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of part 71 of the Federal Aviation regulations by deleting the description of the Winchester, Va., transition area and by substituting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center 39°08'30'' N., 78°08'30'' W. of Winchester Municipal Airport; within a 9.5-mile radius of the center of the airport, extending clockwise from a 187° bearing to a 008° bearing from the airport; within 3.5 miles each side of the Front Royal, Va., VORTAC 223° radial, extending from the VORTAC to 11.5 miles southwest of the VORTAC.

This amendment is proposed under section 307(a) of the Federal Aviation

Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on April 19, 1973.

HARRY BERNARD,
Acting Director, Eastern Region.

[FR Doc.73-8612 Filed 5-2-73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 73-EA-26]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of part 71 of the Federal Aviation regulations so as to alter the Great Bend, N.Y., transition area (38 FR 495).

A review of the terminal area of Great Bend, N.Y., establishes a need to provide additional controlled airspace for aircraft executing the arrival and departure procedures at Wheeler-Sack AAF, Great Bend, N.Y.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before June 4, 1973, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views 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 parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Great Bend, N.Y., proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of part 71 of the Federal Aviation regulations by deleting the description of the Great Bend, N.Y., 700 and 1,200-foot floor transition areas and by substituting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center 44°03'15" N., 75°43'15" W. of Wheeler-Sack AAF, N.Y.; within an 8-mile radius of the center of the airport, extending clockwise from a 065° bearing to a 135° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 135° bearing to a 165° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 165° bearing to a 195° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 195° bearing to a 242° bearing from the airport and within 3 miles each side of the Watertown, N.Y., VORTAC 069° radial, extending from the 6.5-mile radius area to the VORTAC.

That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at 43°52'00" N., 75°54'00" W., to 43°50'30" N., 75°53'30" W., to 43°44'00" N., 75°49'15" W., thence clockwise along an arc with a radius of 40 miles from the center of Griffiss AFB, Rome, N.Y., to longitude 75°30'-00" W., thence north along longitude 75°30'-00" W., to 44°08'00" N., 75°30'00" W., to 44°-10'30" N., 75°31'00" W., to 44°13'00" N., 75°-42'20" W., to point of beginning, excluding the portion which coincides with the Watertown, N.Y., 700-foot and 1,200-foot transition areas.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on April 18, 1973.

HARRY BERNARD,
Acting Director, Eastern Region.

[FR Doc.73-8613 Filed 5-2-73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 73-SW-25]

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 Newgulf, 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, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before June 4, 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 contracting 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, Forth 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:

NEWGULF, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Newgulf Airport (lat. 29°16'00" N., long. 95°53'00" W.) and within 3 miles each side of the Eagle Lake, Tex., VORTAC 136° T (128° M) radial extending from the 5-mile-radius area to 30.5 miles southeast of the Eagle Lake VORTAC.

The proposed transition area will provide controlled airspace for aircraft executing a private VORTAC-A (original) approach procedure.

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 April 19, 1973.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.73-8617 Filed 5-2-73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 73-SW-26]

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 Gainesville, 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, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before June 4, 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:

GAINESVILLE, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Gainesville Airport (lat. 33°39'00" N., long. 99°11'40" W.); and within 3.5 miles each side of the 001° T (352° M) bearing from the Gainesville RBN (lat. 33°42'12" N., long. 97°11'50" W.) extending from the 5-mile-radius area to 11.5 miles north of the RBN.

The proposed transition area will provide controlled airspace for aircraft executing approach/departure procedures proposed at the Gainesville, Tex., Municipal Airport.

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 April 19, 1973.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.73-8618 Filed 5-2-73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 73-SW-27]

TRANSITION AREAS

Proposed Designation and Alteration

The Federal Aviation Administration is considering amending part 71 of the Federal Aviation Regulations to designate a 700-foot transition area at Elk City, Okla., and amend the Clinton, Okla. (Clinton-Sherman Airport), transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Procedures Branch, Air traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before June 4, 1973, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangments 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:

ELK CITY, OKLA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Elk City Airport (lat. 35°25'40" N., long. 99°23'45" W.); and within 3.5 miles each side of the 015°T (005°M) bearing from the Elk City NDB (lat. 35°25'33" N., long. 99° 23'52" W.) extending from the 5-mile-radius area to 8 miles north of the NDB.

§ 71.181 (38 FR 435), the Clinton, Okla. (Clinton-Sherman Airport), transition area is amended by deleting "excluding the portion within the Hobart, Okla., transition area." and substituting therefor "excluding the portion within the Hobart, Okla., and Elk City, Okla., transition areas."

The proposed 700-foot transition area at Elk City, Okla., will provide controlled airspace for aircraft executing approach/departure procedures proposed at the Elk City, Okla., Municipal Airport.

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 April 19, 1973.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.73-8610 Filed 5-2-73;8:45 am]

Hazardous Materials Regulations Board

[49 CFR Parts 172, 173, 174, 178, 179]

[Docket No. HM-106; Notice No. 73-2]

TRANSPORTATION OF HAZARDOUS MATERIALS

Extension of Time To File Comments

On March 22, 1973, the Hazardous Materials Regulations Board published Docket No. HM-106; notice No. 73-2 (38 FR 7470), Miscellaneous. In response to a petition filed in accordance with 49 CFR 170.25, the Board has extended the period for comments on this notice of proposed rulemaking from April 24, 1973 to July 31, 1973.

(Secs. 831-835, title 18, U.S.C., sec. 9, Department of Transportation Act, 49 U.S.C. 1657, title VI, sec. 902(h), Federal Aviation Act of 1958, 49 U.S.C. 1421-1472(h), and 1655(c).)

Issued in Washington, D.C., on April 30, 1973.

ALAN I. ROBERTS,
Secretary, Hazardous Materials Regulations Board.

[FR Doc.73-8772 Filed 5-2-73;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Parts 124, 125]

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Notice of Proposed Form and Proposed Rulemaking Regarding Agricultural and Silvicultural Activities

Notice was published in the FEDERAL REGISTER issue of December 5, 1972 (37 FR 25898), that the Environmental Protection Agency was giving consideration to proposed forms and guidelines for the acquisition of information from owners and operators of point sources. The proposed forms and accompanying instructions described, pursuant to the authority contained in section 304(h)(1) of the Federal Water Pollution Control Act, as amended by the Federal Water Pollution Control Act Amendments of 1972 (86 Stat. 816; 33 U.S.C.A. 1251 et seq. (1972)) (hereinafter referred to as the "Act"), requirements for the acquisition of information from owners and operators of point sources subject to the national pollutant discharge elimination system.

The period for comment for one of the short forms, Short Form B—Agriculture, Forestry and Fishing, was extended an additional 30 days until January 20, 1973. See the notice of extension of period for comment published in the FEDERAL REGISTER on Friday, December 29, 1972, 37 FR 28765. During the extended comment period, the Agency sought and received information, statistics, and advice as to (1) the numbers and kinds of agriculture, forestry, and fish production activities covered by short form B; (2) the nature, size, and frequency of polluting discharges, if any, from such activities; and, (3) any categories of dischargers (including any classes, types, and sizes within any category) that should be excluded from NPDES application and filing requirements.

Statistical information and advice was provided by the U.S. Department of Agriculture, the U.S. Department of the Interior, and from owners and operators of farming and agricultural operations. Meetings were held with agricultural experts and with State officials from the States of California, Illinois, Iowa, Missouri, Nebraska, Texas, and Wisconsin. Agricultural and environmental groups were consulted.

On the basis of the information, statistics, and advice received, the Environmental Protection Agency proposes to exclude for the present time certain categories and classes of agricultural and silvicultural point sources from the requirements of the national pollutant discharge elimination system. Authority for such exclusions rests with the Administrator's discretion under section 402(a)(1) of the Act to issue permits. Section 402(a)(1) provide that the Administrator "may" issue a permit; it does not

require him to issue permits to all point sources. In addition, the Act and the legislative history indicate clearly that Congress regarded discharges from agricultural and silvicultural activities as problems to be dealt with primarily through the exercise of authorities concerning nonpoint sources and that the Administrator would have discretion to distinguish among categories and sizes of agricultural sources. The basis for the exclusions proposed herein is that the pollution problems caused by the excluded categories of point sources is minor in relation to the administrative problem of processing vast numbers of agricultural discharge application forms.

1. *General exclusion of discharges from agricultural and silvicultural activities.*—In the United States, there are 3 million or more farmers engaged in a variety of agricultural and silvicultural activities. Most of these farmers use water for their crops and the water so used ultimately finds its way into the navigable waters, as the term "navigable waters" is defined in the Act. The expenditure in time, dollars, and resources necessary to process applications from every small farmer subject to NPDES requirements would be disproportionate to the water quality benefits obtained. In order to prevent the diversion of the Agency's limited resources from the larger, significant point sources of pollution, the amendments proposed herein exclude the smaller, insignificant agricultural and silvicultural discharges (including minor irrigation return flow discharges and runoff from orchards, cultivated crops, pastures, rangelands, and forest lands) from the requirements of the NPDES.

2. *Exceptions from general exclusion.*—The following categories and classes of agricultural or silvicultural points sources are or could be significant sources of pollution and therefore will be subject to NPDES requirements.

a. *Animal confinement facilities.*—The proposed regulations provide that large animal feedlots and holding facilities will remain subject to NPDES requirements. By the inclusion of the term "concentrated animal feeding operations" in section 502(14) of the Act, Congress indicated its intent that these sources of agricultural pollution be controlled through the NPDES permit program. Recent statistics indicate, however, that there are 1,914,945 concentrated animal feeding operations in the United States. Of these, about 180,000 are cattle feedlots. Again, there are simply too many facilities to make inclusion in the NPDES administratively manageable.

Excluusion of all feedlots, however, is improper as the buildup of solid and liquid wastes resulting from the concentration of animals in confined production facilities represents a significant source of pollution. Accordingly, on the basis of information and statistics received, pollution potential, and administrative manageability, the Agency has attempted to set cutoff points above which animal production facilities would be subject to NPDES requirements.

(1) *Slaughter steers and heifers; 1,000 head or more.*—The owner or operator of any facility with 1,000 or more slaughter steers or heifers must apply for an NPDES permit. In cattle operations particularly, a few large operations tend to dominate the market. In 1970, for example, 1 percent of the cattle feedlots produced 55 percent of the cattle marketed. There are about 2,500 lots with 1,000 or more head of cattle nationally. These 2,500 lots market almost 70 percent of the feed cattle. A reduction of the cutoff below 1,000 head would dramatically increase the number of applications.

(2) *Mature dairy cattle; 700 head or more.*—Any dairy or facility with 700 or more mature dairy cattle is subject to the NPDES. The figure of 700 head includes milkers, pregnant heifers, and dry mature cows in confinement, but not calves. There are about 125 dairy operations with 700 head or more. As in the case of feed cattle, the number of applications increases significantly below the cutoff of 700 head.

(3) *Swine over 55 pounds; 2,500 or more.*—The figure of 2,500 swine is limited to swine weighing over 55 pounds (about 6 weeks old). The cutoff figure should result in applications from about 800 facilities. Although they are many thousands of smaller feedlots for swine, the proposed cutoff of 2,500 will cover the facilities which present the greatest potential for pollution control while limiting the number of applications to a manageable quantity.

(4) *Sheep; 10,000 head or more.*—Facilities for holding or feeding sheep are required to file for an NPDES permit if the facility contains, or contained during the previous 12 months, 10,000 or more sheep. Statistics indicate that there are about 100 feedlots in the United States with 10,000 or more sheep. Smaller feedlots present less potential for pollution problems as sheep manure is particularly marketable to gardners and is therefore less likely to be discharged or disposed of as waste.

(5) *Turkeys, 55,000 or more.*—Turkey lots which contain more than 55,000 birds will be required to apply for an NPDES permit. Generally, only "open lot" turkey operations will be covered as in-house turkey facilities are normally dry operations and have no liquid wastes. An estimated 300 turkey lots will be covered by the 55,000 cutoff.

(6) *Laying hens and broilers; continuous flow watering; 100,000 or more.*

(7) *Laying hens and broilers; liquid manure handling system; 30,000 or more.*—Owners or operators of facilities which utilize unlimited continuous flow watering systems will be required to apply for an NPDES permit if they contain, or during the previous 12 months contained, 100,000 or more laying hens or broilers. Owners or operators of facilities which utilize liquid manure handling systems will be required to apply for an NPDES permit if they contain, or during the previous 12 months contained, 30,000 or more laying hens or broilers. The cited levels will include most of the commercial operations and major facilities utilizing "wet" systems, about 100 of each type. These cutoffs will include almost all egg and chicken production facilities with potential for water pollution problems.

Most broilers, laying hens, and breeding chickens are kept on litter, or in cages with dry litter floors and normally have no waste water. These dry operations account for the vast majority of commercial poultry operations in the country. Where the dry manure and litter is not disposed of in navigable waters, dry operations, for lack of a discharge subject to the Act, will not be subject to NPDES requirements.

(8) *Ducks; 5,000 or more.*—All duck farm operations with more than 5,000 ducks will be required to apply for an NPDES permit. The estimated 80 duck farms with 5,000 or more ducks represent most of the commercial duck operations in the United States. Unlike wastes from most other animal production operations, wastes from duck farms normally require biological treatment. Because of the relatively small number of potential applicants and because the discharges represent a treatment problem of the kind the NPDES is designed to regulate, complete coverage of commercial duck production operations is warranted.

(9) *Combinations of animals.*—If any combination of cattle (slaughter steers, heifers, or dairy cattle), swine, and sheep are brought together in a lot or facility, the owner or operator must determine whether the combined feeding or holding situation may require an NPDES permit. Facilities such as holding pens for keeping animals prior to auction, shipment, slaughter, etc., commonly hold different types of animals in groups which are below the limits set above for each animal but which in combination present a significant potential pollution problem. To calculate whether a mixed animal facility is subject to the NPDES, multiply the number of animals of each type by the multiplier for that type, and add the resulting totals. If the total from the calculation exceeds 1,000, the facility is subject to the requirements of the NPDES. The mutiplier ratios are as follows:

(a) Slaughter steers and heifers	1.0
(b) Mature diary cattle	1.4
(c) Swine over 55 pounds	0.4
(d) Sheep	0.1

If, for example, a pen presently holds 600 slaughter steers, 200 mature dairy cattle, and 500 swine over 55 pounds, the calculation is as follows:

Number of animals		Times		Multiplier		
Steers	600	×		1.0	=	600
Mature dairy cattle	200	×		1.4	=	280
Swine over 55 pounds	500	×		0.4	=	200
Total						1,080

Since the calculated total exceeds 1,000, an application for an NPDES permit must be filed in this case.

Two or more animal pens, feedlots, or other animal confinement facilities are

considered to be a single facility where they are adjacent to each other or where they utilize a common area or system for the disposal of wastes. Thus, for example, neighboring pens, separated by a road, which are owned by the same person or company, and which hold 600 steers and 500 dairy cattle would be subject to NPDES requirements.

b. *Fish and aquatic animal production facilities.*—Although, like nonaquatic animals, fish are concentrated for purposes of feeding and marketing, fish operations are not easily categorized according to the number of fish contained within a particular operation. Fish and acquatic animal production operations are proposed to be excluded herein on the basis of the method of confinement or the continuity of the discharge. Present data indicate that closed ponds with discharges only during annual harvesting or only during periods of excess runoff tend to have a minimal impact upon water quality and therefore are not required to apply at this time for an NPDES permit.

Where fish or other aquatic animals are concentrated in raceways and similar structures which provide a continuous flow of water, the addition of food and wastes to the waterflow is analogous to an industry which takes in water for use in processing and subsequently discharges the water laden with wastes. The continuously flowing waters in raceways makes possible a much greater concentration of animals and an increased production of wastes. If, however, discharges occur infrequently, the potential impact on water quality is reduced. Accordingly, where discharges occur less than 30 days a year, the fish production facility is not subject to NPDES requirements at this time. Some small ponds such as fish out facilities and farm ponds may have more frequent discharge, yet still are essentially pond operations and do not represent intensive fish farming. For this reason, where the flow is continuous but the total number of pounds of aquatic animals produced per year is less than 20,000 pounds, the facility is not subject to NPDES requirements at this time.

Facilities which contain any species not native to the United States and discharge into navigable waters are subject to NPDES requirements regardless of the continuity of flow or the size of the facility. There is a threat that foreign pathogens or parasites harmful to our native ecosystems or to man might be introduced through discharges from these facilities. For this reason, nonnative fish production operations which discharge into navigable waters must apply for an NPDES permit. Nonnative fish species are defined in "Special Publication No. 6" of the American Fisheries Society entitled, "A List of Common and Scientific Names of Fishes from the U.S. and Canada." Carp, goldfish, and brown trout, although included in the American Fisheries Society List, are excluded from the category of nonnative fishes due to their widespread distribution and relatively long residence time in the United States.

c. *Irrigation activities.*—Irrigation return flow discharged to navigable waters from one or more point sources (such as pipes, channels, or other discrete conveyances) is subject to NPDES requirements if more than 3,000 acres of irrigated land are under one ownership or under control of one irrigation district. The land serviced by the 1,100 irrigation systems which provide water to 3,000 or more acres represents 80 percent of all acreage irrigated by such systems. If, of course, waters from an irrigation system enter navigable waters from diffuse sources, the requirements of the NPDES do not apply as there is no point source of discharge.

d. *Identified point sources.*—Although the general exclusion may remove large numbers of infrequent and insignificant discharges from the NPDES permit program at this time, certain other agricultural dischargers, not included within the categories listed above, may or could be significant sources of pollution.

If an excluded agricultural or silvicultural point source is a significant contributor of pollution, however, the Environmental Protection Agency or the water pollution control agency for the State or interstate area may identify the source as not included within the exclusion. If a point source is so identified, the owner or operator, upon notification, must comply with all NPDES filing and application requirements.

3. *Requirements of section 301(a) of the Act.*—Although the excluded categories are thus relieved at this time from complying with the requirements of section 402 of the Act and regulations issued thereunder, point sources within such categories remain subject to all other applicable provisions of Federal law and the Act, including, in particular, section 301(a) of the Act which provides that discharges from any point source are unlawful "except as in compliance with this section and sections 302, 306, 307, 318, 402, and 404." Therefore, although owners and operators of the excluded point sources are not required to apply for or obtain an NPDES permit, they must comply with the other requirements of the Act including any applicable effluent guidelines, standards of performance, toxic effluent standards or prohibitions, or pretreatment standards.

4. *Short Form B—Agriculture.*—Also proposed herein is a revised short form B for those agricultural discharges which are not excluded herein from NPDES filing requirements. The revised form is designed to provide basic information sufficient to permit the application of standards and guidelines under the Act.

Certain information on short form B is to be provided by all agricultural applicants. Other sections are to be completed on the basis of type of facility or activity. Special sections for this purpose are provided for animal confinement and feeding facilities, for fish and aquatic animal production facilities, and for irrigation return flow discharges from point sources.

The interim standard analytical methods and instructions provided in table I of short form B shall be used by applicants pursuant to the instructions provided until the promulgation of guidelines under section 304(g) of the Act. Section 304(g) requires, within 180 days of enactment, guidelines establishing test procedures for the analysis of pollutants that shall include the factors which must be provided in any permit application pursuant to section 402 of the Act. Following promulgation of the 304(g) guidelines, applicants for section 402 permits shall utilize any applicable test procedures contained in those guidelines for the analysis of pollutants reported in any NPDES application or reporting form, including short form B proposed herein.

5. *Filing instructions for short form B.*—Section 402(k) of the Act requires all owners or operators of point sources to apply for a permit to discharge pursuant to section 402 within 180 days of the date of enactment if the discharge is not to be a violation of the Act. All owners and operators of agricultural point sources subject to the Act (other than those owners and operators who have submitted complete Refuse Act applications) must file short form B within the 180-day period. Persons filing a short form B with the Environmental Protection Agency will be required to pay a filing fee of $10. The fee is assessed per application and not per discharge. For example, even though a facility filing a short form B may have four discharges, the applicant pays only $10. Persons filing a short form B with a State or interstate agency participating in the NPDES will be required to pay any lawful fees assessed by such agency.

The form can be completed in most cases by an applicant in a short period of time. In cases involving irrigation return flow, a full determination of the impact of the discharge on water quality may require further information and a more detailed analysis of the discharge. The Regional Administrator or his representatives or, in the case of States participating in the NPDES, the State director or his representatives, will determine on a case-by-case basis whether further information is necessary before the permit can be issued. In all such cases, the applicant will be notified and advised as to further information requirements. The Regional Administrator or the State director may also arrange for a visit to the site in order to better determine the nature of the discharges.

Short form B proposed herein is to be used by the Administrator of the Environmental Protection Agency and by approved State programs as a principal means of acquiring information from owners and operators of agricultural point sources. Short form B is included within the meaning of the term "NPDES application form" as that term is used in the guidelines published under section 304(h)(2) of the Act.

Prior to the adoption of the proposed rulemaking and form and instructions, consideration will be given to any comments, suggestions, or objections thereto which are submitted in writing to the

Office of Enforcement and General Counsel, Washington, D.C. 20460, on or before May 30, 1973. In addition, interested persons wishing to have their comments considered in the clearance of the proposed revisions in the report form pursuant to 44 U.S.C. 3501–3511 may, at the some time, submit a conformed copy of their comments directly to the Clearance Officer, Statistical Policy Division, Office of Management and Budget, Washington, D.C. 20530.

Dated April 25, 1973.

WILLIAM D. RUCKELSHAUS,
Administrator.

Part 124 of title 40 of the Code of Federal Regulations, setting forth State program elements necessary for participation in the national pollutant discharge elimination system, is proposed to be amended as follows:

1. Section 124.1 is amended to add new paragraphs (s) and (t) as follows:

§ 124.1 Definitions.

* * * * *

(s) The term "animal confinement facility" means a lot or facility used or capable of being used for the feeding or holding of animals (other than fish or other aquatic animals), but does not include land used for the growing of crops or vegetation for animal feeding. Two or more animal confinement facilities under common ownership are deemed to be a single animal confinement facility if they are adjacent to each other or if they utilize a common area or system for the disposal of wastes.

(t) The term "aquatic animal production facility" means a hatchery, fish farm, or other facility which contains, grows, or holds

(1) Fish or other aquatic animals in ponds, raceways, or other similar structures for purposes of production and from which there is a discharge on more than any 30 days of the year, but does not include

(i) Closed ponds with discharges only during annual harvesting or only during periods of excess runoff, or

(ii) Facilities which produce less than 20,000 pounds of aquatic animals per year;

(2) Any species of fish or other aquatic animal (other than carp (*Cyprinus carpio*), goldfish (*Carassius auratus*), or brown trout (*Salmo trutta*)) nonnative to the United States (for fish, as defined in "Special Publication No. 6" of the American Fisheries Society entitled, "A List of Common and Scientific Names of Fishes from the United States and Canada") and from which there is a discharge at any time. "Special Publication No. 6" may be ordered through the American Fisheries Society, 1319 18th Street NW., Washington, D.C. 20036.

2. Subpart B is amended to read as follows:

Subpart B—Prohibition of Discharges of Pollutants

§ 124.10 Prohibition of discharges into State waters.

Except as provided in § 124.11, any State or interstate program participating in the NPDES must have a statute or regulation, enforceable in State courts, which prohibits discharges of pollutants by any person except as authorized pursuant to an NPDES permit.

Comment.—It is recognized that some State or interstate programs presently exempt or exclude certain categories, types, or sizes of point sources from the general prohibition of the unauthorized discharge of pollutants or from the requirement of obtaining a permit. Other States have in effect "grandfather" clauses which either exempt discharges already in existence or provide for automatic issuance of a permit to existing dischargers. Except as provided in § 124.11, exceptions to the general prohibition cannot be approved. Depending on their scope and nature, any such exceptions will either (1) constitute grounds for withholding approval of the entire submitted program until such time as the State or interstate agency revises or modifies its program to conform to this subpart, or (2) constitute categories, types, or sizes of point sources for which the Administrator will not suspend the issuance of NPDES permits. In the latter case, the Administrator will issue NPDES permits for those point sources not subject to the State or interstate agency's authority.

§ 124.11 Exclusions.

State and interstate programs may exclude the following from the requirement of obtaining an NPDES permit:

(a) "Sewage from vessels" within the meaning of section 312 of the Act;

(b) Any addition of any pollutant to the waters of the territorial sea from any vessel or other floating craft: *Provided*, That this exclusion shall not apply to any discharge of sewage sludge which would result in any pollutant from such sewage sludge entering the navigable waters;

(c) Discharges from properly functioning marine engines;

(d) Water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located and if the State determines that such injection or disposal will not result in the degradation of ground or surface water resources;

(e) Approved aquaculture projects;

(f) Dredged or fill material discharged into navigable waters;

(g) Additions of sewage, industrial waste, or other materials into publicly owned treatment works. (This exclusion applies only to the actual addition of materials into publicly owned treatment works. Plans or agreements to make such additions in the future do not relieve dischargers of the obligation to apply for and receive permits until the discharges of pollutants to navigable waters are actually eliminated);

(h) Discharges of shower, laundry, and galley waste (not including trash, garbage, or rubbish) from vessels;

(i) Uncontrolled discharges composed entirely of storm runoff when these discharges are uncontaminated by any industrial or commercial activity, unless the particular storm runoff discharge has been identified by the Director or the Regional Administrator as a significant contributor of pollution; and

(j) Discharges of pollutants from agricultural and silvicultural activities, including irrigation return flow and runoff from orchards, cultivated crops, pastures, range lands, and forest lands, except that this exclusion shall not apply to the following:

(1) Discharges from animal confinement facilities, if such facility or facilities contain, or at any time during the previous 12 months contained, any of the following types of animals in excess of the number listed for each type of animal:

(i) 1,000 slaughter steers and heifers;

(ii) 700 mature dairy cattle (whether milkers or dry cows);

(iii) 2,500 swine weighing over 55 pounds;

(iv) 10,000 sheep;

(v) 55,000 turkeys;

(vi) If the animal confinement facility has unlimited continuous flow watering, 100,000 laying hens and broilers;

(vii) If the animal confinement facility has liquid manure handling systems, 30,000 laying hens and broilers;

(viii) 5,000 ducks;

(2) Discharges from animal confinement facilities, if such facility or facilities contain, or at any time during the previous 12 months contained, a combination of animals such that the sum of the following numbers is 1,000 or greater: The number of slaughter steers and heifers multipled by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 55 pounds multiplied by 0.4, plus the number of sheep multiplied by 0.1;

(3) Discharges from aquatic animal production facilities;

(4) Discharges from more than 3,000 acres of irrigated land under one ownership or under control of one irrigation district; and

(5) Discharges from any agricultural or silvicultural activity which have been identified by the Regional Administrator or the director of the State water pollution control agency or interstate agency as a significant contributor of pollution.

Part 125 of title 40 of the Code of Federal Regulations, setting forth policies and procedures for the Environmental Protection Agency's administration of its role in the national pollutant discharge elimination system, is proposed to be amended as follows:

1. Two new paragraphs, (hh) and (ii), are added to § 125.1 as follows:

§ 125.1 Definitions.

* * * * *

(hh) The term "annual confinement facility" means a lot or facility used or capable of being used for the feeding or holding of animals (other than fish or other aquatic animals), but does not include land used for the growing of crops or vegetation for animal feeding. Two or more animal confinement facilities under common ownership are deemed to be a single animal confinement facility if they are adjacent to each other or if

they utilize a common area or system for the disposal of wastes.

(ii) The term "aquatic animal production facility" means a hatchery, fish farm, or other facility which contains, grows, or holds:

(1) Fish or other aquatic animals in ponds, raceways, or other similar structures for purposes of production and from which there is a discharge on more than any 30 days of the year, but does not include:

(i) Closed ponds with discharges only during annual harvesting or only during periods of excess runoff, or

(ii) Facilities which produce less than 20,000 pounds of aquatic animals per year;

(2) Any species of fish or other animal life (other than carp (*Cyprinus carpio*), goldfish (*Carassius auratus*), or brown trout (*Salmo trutta*) nonnative to the United States (for fish, as defined in "Special Publication No. 6" of the American Fisheries Society entitled, "A List of Common and Scientific Names of Fishes from the U.S. and Canada"), and from which there is a discharge at any time. "Special Publication No. 6" may be ordered through the American Fisheries Society, 1319 18th Street NW., Washington, D.C. 20036.

2. A new § 125.4(j) is added as follows:

§ 125.4 Exclusions.

* * * * *

(j) Discharges of pollutants from agricultural and silvicultural activities, including irrigation return flow and runoff from orchards, cultivated crops, pastures, range lands, and forest lands, except that this exclusion shall not apply to the following:

(1) Discharges from animal confinement facilities, if such facility or facilities contain, or at any time during the previous 12 months contained, any of the following types of animals in excess of the number listed for each type of animal:

(i) 1,000 slaughter steers and heifers;

(ii) 700 mature dairy cattle (whether milkers or dry cows);

(iii) 2,500 swine weighing over 55 pounds;

(iv) 10,000 sheep;

(v) 55,000 turkeys;

(vi) If the animal confinement facility has unlimited continuous flow watering, 100,000 laying hens and broilers;

(vii) If the animal confinement facility has liquid manure handling systems, 30,000 laying hens and broilers;

(viii) 5,000 ducks;

(2) Discharges from animal confinement facilities, if such facility or facilities contain, or at any time during the previous 12 months contained, a combination of animals such that the sum of the following numbers is 1,000 or greater: The number of slaughter steers and heifers multiplied by 1.0 plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 55 pounds multiplied by 0.4, plus the number of sheep multiplied by 0.1;

(3) Discharges from aquatic animal production facilities;

(4) Discharges from more than 3,000 acres of irrigated land under one ownership or under control of one irrigation district; and

(5) Discharges from any agricultural or silvicultural activity which have been identified by the Regional Administrator or the director of the State water pollution control agency or interstate agency as a significant contributor of pollution.

GENERAL INSTRUCTIONS

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM APPLICATION FOR PERMIT TO DISCHARGE (SHORT TERM)

The Federal Water Pollution Control Act, as amended by Public Law 92-500 enacted October 18, 1972, prohibits any person from discharging pollutants into a waterway from a point source (see definitions below), unless his discharge is authorized by a permit issued either by the U.S. Environmental Protection Agency or by an approved State agency. (See "Procedures for Filing.")

REQUIREMENTS

If you have a discharge or discharges, such as that described in the first paragraph of these instructions, you must complete one of the following forms to apply for a discharge permit. The forms differ by types of discharges as indicated below:

Short Form A—Municipal Wastewater Dischargers.

Short Form B—Agriculture.

Short Form C—Manufacturing Establishments and Mining.

Short Form D—Services, Wholesale and Retail Trade, and All Other Commercial Establishments, Including Vessels, Not Engaged in Manufacturing or Agriculture.

If your business or activity involves production of both raw products and ready-for-market products you may be required to complete two of the above forms. For example, if you produce a raw product such as milk and, on the same site, process the raw milk into cheese, you must complete Form B—Agriculture, and Form C—Manufacturing and Mining.

If the discharge is from a Federal facility's treatment plant receiving more than 50 percent domestic waste (based on the dry weather flow rate) complete form A.

If the discharge is from a sewage treatment process which is not from a municipal, agricultural, or industrial facility (e.g., housing subdivision, school) complete and submit form D.

EXCLUSIONS

You are not required to obtain a permit for the following types of waste discharges:

(1) Sewage discharged from vessels (e.g., ships); or

(2) "Water, gas, and other materials injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well" where authorized by the State in which the well is located; or

(3) Dredged or fill material; or

(4) Discharges from properly functioning marine engines; or

(5) Those discharges conveyed directly to a publicly or privately owned waste treatment facility (however, discharges originating from publicly or privately owned waste treatment facilities are not excluded); or

(NOTE.—Municipal and manufacturing dischargers that believe they are exempt due to item 5, are requested to complete certain items and return the form (see "Procedures for Filing").)

(6) Most discharges from separate storm sewers. Discharges from storm sewers which receive industrial, municipal, and/or agricultural wastes or which are considered by EPA or a State to be significant contributors to pollution are not excluded.

PROCEDURES FOR FILING

Copies of all forms are available at State water pollution control agencies and at all Environmental Protection Agency regional offices (see attached table).

Data submitted on these forms are to be used as a basis for issuing discharge permits. Depending on the adequacy and nature of the data submitted, you may be called upon for additional information before a permit is granted.

If you have any questions as to whether or not you need a permit under this program contact your State water pollution control agency or the nearest regional office of the U.S. Environmental Protection Agency. A list of EPA regional offices is in the attached table.

Complete the appropriate form(s) for your operation, being sure that each item is considered and the required data submitted. Check the items which most nearly apply to you and your operation. If an item does not apply, please enter in the appropriate place "Not Applicable" or "NA" to show that the item was given consideration. Most of the items on the form require the checking of one or more of several possible answers.

If the application is to be sent to the Environmental Protection Agency, there is an application fee of $10. This fee, in the form of a check or money order made payable to the Environmental Protection Agency, should be mailed with the original of the application form to the EPA regional office having jurisdiction over the State in which the discharge is located.

If the State in which the discharge is located has a federally approved permit program, the application should instead be sent to the State agency administering the program; you will be informed as to the amount of the application fee, if any, and the address to which the application and fee should be sent.

Agencies and instrumentalities of Federal, State, or local governments will not be required to pay an application fee.

Applications pertaining to "existing" discharges, i.e., those which were in operation on or before October 18, 1972, must be filed with the EPA regional office or approved State agency by April 16, 1973. The exception is that anyone who applied to the Corps of Engineers for a discharge permit under the Refuse Act of 1899 need not reapply for a permit for the same discharge, unless it is substantially changed in nature, volume, or frequency; application must also be made for any other discharges not covered by the Refuse Act.

Applications for "new" discharges beginning between October 18, 1972, and on or before July 15, 1973, must apply at least 60 days before the date the discharge is due to begin, unless a delay is granted by the approved State agency or by EPA.

Applications for "new" discharges beginning on or after July 16, 1973, must apply at least 180 days before the date the discharge is due to begin, unless a delay is granted by the approved State agency or by EPA.

SIGNATURE ON APPLICATION

The person who signs the application form will often be the applicant himself; when another person signs on behalf of the applicant, his title or relationship to the applicant should be shown in the space provided. In all cases, the person signing the form should be authorized to do so by the applicant. An application submitted by a

corporation must be signed by a principal executive officer of at least the level of vice president or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which the discharge(s) described in the form originate. In the case of a partnership or a sole proprietorship, the application must be signed by a general partner or the proprietor, respectively. In the case of a municipal, State, Federal, or other public facility, the application must be signed by either a principal executive officer, ranking elected official, or other duly authorized employee.

USE OF INFORMATION

All information contained in this application will, upon request, be made available to the public for inspection and copying. A separate sheet entitled "Confidential Answers" must be used to set out information which is considered by the applicant to constitute trade secrets. The information must clearly indicate the item number to which it applies. Confidential treatment can be considered only for that information for which a specific written request of confidentiality has been made on the attached sheet. However, in no event will identification of the contents, volume, and frequency of a discharge be recognized as confidential or privileged information, except in certain cases involving the national security.

DEFINITIONS

1. A "person" is an individual, partnership, corporation, association, State, municipality, commission, other political subdivision of a State, and any interstate body.

2. A "pollutant" includes solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal and agricultural waste discharged into water.

3. A "point source" is any discernible, confined and discrete conveyance including but not limited to a pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft from which pollutants are or may be discharged.

4. A "discharge of pollutant" or a "discharge of pollutants" means any addition of any pollutant to the waters of the United States from any point source; any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft.

5. A "discharge" when used without qualification includes a "discharge of polluant" and a "discharge of pollutants." (See above.)

6. The term "municipality" means a city, town, borough, county, parish, district, association, or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved areawide waste treatment management agency.

I. Regional Administrator, Region I, Environmental Protection Agency, John F. Kennedy Federal Bldg., room 2303, Boston, Mass. 02203. Attention: Permits Branch. 617-223-7210.	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.
III. Regional Administrator, Region III, Environmental Protection Agency, Curtis Bldg., Sixth and Walnut Sts., Philadelphia, Pa. 19106. Attention: Permits Branch. 215-597-9966.	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia.
V. Regional Administrator, Region V, Environmental Protection Agency, 1 North Wacker Dr., Chicago, Ill. 60606. Attention: Permits Branch. 312-353-1476.	Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.
VII. Regional Administrator, Region VII, Environmental Protection Agency, 1735 Baltimore Ave., Kansas City, Mo. 64108. Attention: Permits Branch. 816-374-5955.	Iowa, Kansas, Missouri, Nebraska.
IX. Regional Administrator, Region IX, Environmental Protection Agency, 100 California St., San Francisco, Calif. 94111. Attention: Permits Branch. 415-556-3450.	Arizona, California, Hawaii Nevada, Guam, American Samoa.
II. Regional Administrator, Region II, Environmental Protection Agency, 26 Federal Plaza, Room 908, New York, N.Y. 10007. Attention: Permits Branch. 212-264-9895.	New Jersey, New York, Virgin Islands, Puerto Rico.
IV. Regional Administrator, Region IV, Environmental Protection Agency, 1421 Peachtree St. NE., Atlanta, Ga. 30309. Attention: Permits Branch. 404-526-3971.	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.
VI. Regional Administrator, Region VI, Environmental Protection Agency, 1600 Patterson St., Suite 1100, Dallas, Tex. 79201. Attention: Permits Branch. 214-749-1983.	Arkansas, Louisiana, New Mexico, Oklahoma, Texas.
VIII. Regional Administrator, Region VIII, Environmental Protection Agency, 1860 Lincoln St., Suite 900, Denver, Colo. 80203. Attention: Permits Branch. 303-837-4901.	Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.
X. Regional Administrator, Region X, Environmental Protection Agency, 1200 Sixth Ave., Seattle, Wash. 98101. Attention: Permits Branch. 206-442-1213.	Alaska, Idaho, Oregon, Washington.

SHORT FORM B—SPECIFIC INSTRUCTIONS

AGRICULTURE

Who must apply.—The owner or operator of any facility as described below or for which the Regional Administrator, or Director of the State water pollution control agency or interstate agency has reason to believe that the facility, regardless of size or type, represents a significant pollution problem. Final determinations on need for a permit will be based upon a review of the application and in many instances, site visits.

1. *Animal production facilities.*—A. A facility providing a confined area for feeding or holding animals, but not used for growing crops or vegetation for animal feeding, which holds, or during the previous 12 months held, the following number of animals at any one time:

Type of animals:	*Number of animals*
Slaughter steers and heifers	1,000
Mature dairy cattle—milker and dry	700
All swine over 55 pounds	2,500
Sheep	10,000
Turkeys—in open lots	55,000
Ducks	5,000
Laying Hens and Broilers:	
Cage facilities with unlimited continuous flow watering	100,000
Cage facilities with liquid manure handling systems	30,000

B. Any facility wherein animals are held or, during the previous 12 months, were in such combination that the sum of the following animals multiplied by the following multipliers exceeds 1,000:

Slaughter steers and heifers	1.0
Mature dairy cattle	1.4
Swine over 55 pounds	0.4
Sheep	0.1

In reaching a determination on the basis of animals in combination, add together the number of animals X the multiplier.

Example:
Holding capacity:

Number of animals		Times	Multiplier		
Steers	600	×	1.0	=	600
Mature dairy cattle	200	×	1.4	=	280
Swine over 55 pounds	500	×	0.4	=	200
Total					1,080

Since the total exceeds 1000, a permit application must be submitted.

C. Owners or operators, whether individuals, partnerships or corporations, with more than one confined animal production facility located on adjacent or nearby properties, where:

1. such facilities utilize a common waste control system or disposal area, and

2. the total number of animals or combination of animals in the individual operations exceeds the above animal limits.

2. *Fish and aquatic animal production facilities.*—a. Any facility such as hatcheries, fish farms, or other facilities which contain, grow, or hold aquatic animals in ponds, raceways or other similar structures for purposes of production and from which there is a discharge for more than any 30 days per year. Closed ponds which discharge only during annual harvesting or only during periods of excess runoff and facilities which produce less than 20,000 pounds of aquatic animals per year are excluded from filing an application except as provided for in 2b and 4 below.

b. Any facility which contains, grows, or holds any species of aquatic life nonnative to the United States, from which there is a discharge to a navigable water at any time. The nonnative species of fish are as defined

in "Special Publication No. 6" of the American Fisheries Society entitled, "A List of Common and Scientific Names of Fishes from the United States and Canada."

3. *Irrigation activities.*—Irrigation organizations or individual operations which irrigate land areas exceeding 3,000 acres and from which return flows are discharged thru a pipe, ditch, or other defined or discrete conveyance.

4. *General agriculture activities.*—Any agricultural operation with any point source discharge, otherwise excluded from mandatory application filing requirements, which the EPA Regional Administrator or State or interstate agency identifies as a significant contributor of pollution.

INSTRUCTIONS FOR INDIVIDUAL ITEMS

Section I—General

Item 1.—A. Give the name as it is legally referred to of the person, firm, public organization, or any other entity which owns or is directly responsible for the facility or activity described in this application. This may or may not be the same name as the facility or activity producing the discharge. Do not use colloquial names as a substitute for the official name.

B. Give the complete mailing address of the applicant's main office. This often will not be the same address used to designate the location of the facility or activity.

Item 2.—Give the name, title, address, and telephone number of a person who is thoroughly familiar with the facts reported on the forms and can be contacted if required by reviewing offices.

Item 3.—The facility is the distinct activity or installation under the responsibility of the applicant which produces or may produce one or more sources of pollution. Name the facility as it is officially or legally referred to in order to distinguish it from similar entities in the same geographical area. Do not use colloquial names as a substitute for the official name. Check the appropriate box in (b) to indicate if the facility is publicly or privately owned or both. Check the box in (c) if this is a federally owned or operated facility. Where the facility is actually located is to be provided in (d). This may be different than the mailing address of the facility.

Item 4.—Indicate whether the facility is existing (currently operating) or proposed.

Item 5.—For an existing facility, give the date construction was completed for its current capacity. The expected completion date should be given if the facility is currently under construction or planned.

Item 6.—Name the waterway(s) at the point(s) of discharge. Use the name of the waterway by which it is usually designated on published maps of the area; if possible, refer to one of the map series published by the U.S. Geological Survey. When the discharge is to an unnamed tributary, please so state and give the name of the first body of water fed by that tributary that is named on the map, e.g., *Unnamed* ditch to Vaughan Creek. *Unnamed* arroyo to Serpent River, where Serpent River is the first body of water reached by the discharge that is named on the map.

Item 7.—Self-explanatory.

Item 8.—Indicate if any known complaints have been made to any responsible level of government.

Item 9.—Directions should use known landmarks and route numbers if possible.

Item 10.—Self-explanatory.

Item 11.—Check the appropriate box(es) to indicate the one or more types of agricultural operations which are being described in this application. Proceed to the appropriate section(s) according to the box(es) checked.

Section II—Animal Confinement and Feeding Facilities

Item 1.—Give the largest number of animals held by the facility during the previous 12 months in terms of the types and number of animals. If possible, use the same designations for the types of animals as was listed at the beginning of these instructions under "Who Must Apply."

Item 2.—Give only the area used for the animal confinement or feeding facility. Do not include area used for growing feed.

Item 3.—Self-explanatory.

Item 4.—Indicate in (a) whether the animals are entirely in the open, totally under roof, or partially under roof. Indicate in (c) the percentage of the lot that is roofed versus that which is open.

Item 5.—If the facility is planned to be expanded in the future, give the date for this expansion and the new total capacity by type and number of animals.

Section III—Fish and Other Aquatic Animal Production Facilities

Item 1.—Give the month during which the maximum total weight of the combined species on hand occurs. For that month, list the type and average pounds of each species in the system. Fish names listed should be the proper, common, or scientific names as given in Special Publication No. 6 of the American Fisheries Society, "A List of Common and Scientific Names of Fishes from the United States and Canada."

Item 2.—The above publication should also be used as the reference to determine whether or not a fish species is native to the United States, except that carp (*Cyprinus carpio*), goldfish (*Carassius auratus*) and brown trout (*Salmo trutta*) are deemed native for purposes of this program.

Item 3.—Self-explanatory.

Item 4.—Self-explanatory.

Item 5.—Provide the values for the parameters listed in the units specified. Samples should be representative of the month indicated in Item 1. In order for the values to be representative, they should be based on at least a 24-hour composite sample. If grab samples were taken, values should represent a minimum of the average of 4 consecutive weeks. Analytical methods to be used and level of data reported are shown in Table I.

Item 6.—Give the average number of pounds of food fed per day for the month listed in Item 1 in which the maximum total weight of the combined species on hand occurs. Also, give the type of food utilized i.e., specify moist pellets, dry pellets, offal, or other specific food type.

Section IV—Irrigation Activities With Point Return Flows

Item 1.—If return flows from the irrigation occur the year around, check the box provided in (a). Otherwise, check the box(es) beside the month(s) listed under (b) to show when the flows occur.

Item 2.—Give, by irrigation practice used, the acreage under irrigation.

Item 3.—Give the total water diverted (total inflow) for irrigation from a basic source of supply, such as a river, reservoir, or well by this activity and the total water return from flow return points to surface waters (e.g., streams, rivers, lakes, etc.).

Item 4.—Give the number of separate discrete points at which water is being diverted for irrigation purposes and the number of the return points.

TABLE I

STANDARD ANALYTICAL METHODS (INTERIM)

(To be used with item 3, section III)

The following tables are to be used as a guide in reporting the data concerning each parameter. The first column of each table, "Parameter and units," indicates the preferred units for reporting data for a given parameter. The second column, "Methods," lists the preferred analytical method (if any) for determining the required parameter values. The next three columns, "References," give the page numbers in standard reference works where a detailed description of the recommended analytical techniques given under "Method" can be found. These standard references are:

1. "Standard Methods for the Examination of Water and Wastewaters," 13th Edition, 1971, American Public Health Association, New York, N.Y. 10019.

2. "A.S.T.M. Standards," Part 23, Water; Atmospheric Analysis, 1972, American Society for Testing and Materials, Philadelphia, Pa. 19103.

3. "EPA Methods for Chemical Analysis of Water and Wastes," April 1971, Environmental Protection Agency, Water Quality Office, Analytical Quality Control Laboratory, NERC, Cincinnati, Ohio 45268.

Copies of the publications are available from the above sources, or for review in the regional offices of the Environmental Protection Agency or the State water control board.

The last column, "Data reporting level," indicates the nearest significant figure (digit) to which the data must be reported. For example, the figure X for BOD_5 indicates that BOD_5 data must be reported to the nearest whole milligrams per/liter and that it is not necessary to report in fractional milligrams per/liter. This level should not be confused with "detectable limits"; applicable detection limit information can be obtained from the appropriate reference source.

TABLE I.—CHEMICAL PARAMETERS

Parameter and units	Method	References			Data reporting level
		Standard methods 13th edition 1971	A.S.T.M. standards Public Law 23, 1972	EPA methods 1971	
Total suspended (Nonfilterable) solids milligram per liter 00530.	Glass fiber filtration 103-105° C.	p. 537		p. 278	X.
Ammonia (as N) 00610	Distillation-nesslerization or automated phenolate.			p. 134, p. 141	XX.
BOD 5-Day milligram per liter 00310.	Modified winkler or probe method.	p. 489	p. 618	p. 15	X.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM—SHORT FORM B

AGRICULTURE

To be completed by confined animal production facilities, fish farms, hatcheries, and preserves, and irrigation activities meeting size or other pertinent criteria described herein.

I. General

1. Name and address of applicant:
   A. Legal name of applicant _____
   B. Mailing address of applicant:
      1. Street, route, or P.O. box No. _____
      2. City or town _____
      3. County or borough _____
      4. State _____
      5. Zip code _____
   C. Telephone number with area code _____
2. Applicant's authorized agent:
   A. Name _____
   B. Title _____
   C. Mailing address:
      1. Street, route, or P.O. box No. _____
      2. City or town _____
      3. County or borough _____
      4. State _____
      5. Zip code _____
   D. Telephone number with area code _____

I certify that I am familiar with the information contained in the application and that to the best of my knowledge and belief such information is true, complete, and accurate.

_____
Printed name of person signing

_____
Title

_____
Date application signed

_____
Signature of applicant

18 U.S.C. section 1001 provides that:

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing same to contain false, fictitious, or fraudulent statement or entry, shal lbe fined not more than $10,000 or imprisoned not more than 5 years, or both.

3. Name, ownership and physical location of facility:
   A. Name _____
   B. Ownership (check one):
      1. ☐ Public 2. ☐ Private
      3. ☐ Both public and private
   C. Check box if this is a federally owned and/or operated facility (e.g., Fish Hatchery) ☐
   D. Location (complete as applicable):
      1. City or township _____
      2. Section _____
      3. Quarter _____
      4. County or borough _____
      5. State _____
4. Is this facility (check one):
   A. ☐ Existing?
   B. ☐ Proposed?
5. Date facility was (or to be) constructed
   _____ _____
   Month Year
6. Receiving water(s) name(s) _____
7. Have you applied for a State Pollution Control Permit for this facility?
   A. ☐ Yes B. ☐ No. If a State pollution control permit for this facility has been issued, give C, date of issue,
   _____ _____ _____
   Month Day Year
   and D, permit No. _____
8. Do you have knowledge of any complaint pertaining to water pollution being issued against this facility?
   A. ☐ Yes B. ☐ No
9. Give direction to this facility from nearest town _____
10. Attach a sketch of the existing or proposed facility and/or activity and facility and indicate the following on the sketch: (1) Approximate overall dimensions of the facility, (2) direction and location of surface drainage and other discharges from the facility, (3) general location of waterways in the area, (4) location of area for manure disposal, (5) direction and location of diversion points for irrigation activities. A marked up Soil Conservation Service aerial photograph or U.S. Geological Survey map of the area involved is desirable in lieu of a sketch.
11. Submission of this application is (are) the result of: (check as applicable)
   A. ☐ Animal confinement facility;
   B. ☐ Fish farm, hatchery, or preserve having continuous discharges as defined in instructions; or
   C. ☐ Irrigation return flow.

If 11A was checked complete items in section II, "Animal Confinement and Feeding Facilities."

If 11B was checked complete items in section III, "Fish Farms, Hatcheries, and Preserves."

If 11C was checked complete items in section IV, "Irrigation Return Flows."

II. Animal Confinement and Feeding Facilities

1. Largest number of animals held by animal confinement or feeding facilities in previous 12 months by type and number of animals:

Type of animal	*Number of Animals*

2. Approximate area used for animal confinement or feeding: _____ acres.
3. Approximate land available for manure disposal and/or runoff disposal _____ acres.
4. A. Animals in this facility are (check one):
   1. ☐ In open confinement.
   2. ☐ Housed under roof.
   3. ☐ Both in open confinement and housed under roof.
   B. If there is open confinement, has a run-off diversion and control system been constructed?
   1. ☐ Yes 2. ☐ No
   C. If there are any housed animals at this facility, is there a water carriage system utilized for manure management? 1. ☐ Yes 2. ☐ No. If yes, is there a discharge tb a waterway? 3. ☐ Yes. 4. ☐ No
5. Do you anticipate expansion of this facility in the future? A. ☐ Yes B. ☐ No. If yes, give estimate of date and future operation capacity:
   C. Date of future expansion
   _____ _____
   Month Year
   D. Type of animals
   _____
   _____
   _____
   E. No. of animals
   _____
   _____
   _____

III. Fish and Aquatic Animal Production Facilities

1. (A) The maximum weight on hand of all species combined occurs during the month of _____.
   (B) List the type and average pounds of each species on hand during the month given in 1(A).

Species	*Average pounds under production*

2. Do you produce, cultivate, or hold any nonnative (species not native to the United States) species? A. ☐ Yes B. ☐ No. If yes, describe the procedures such as disinfection or ultraviolet treatment, which you use to insure that parasites and pathogens do not escape into navigable waters.
   _____
   _____
   _____
   _____
3. Is there a discharge for more than any 30 days per year? A. ☐ Yes B. ☐ No. If yes, answer 4, 5, and 6.
4. Facility designed for continuous cleaning? A. ☐ Yes B. ☐ No. If no, state the average: Frequency _____ time per _____. Time required _____ hours per cleaning.
5. Discharge information:

Parameter:	*Daily average value during normal operation*
Flow (gallons per day) 00056	
Total suspended solids 00530 (mg/l)	
Ammonia 00610 (mg/l)	
BOD 5 day (mg/l) 00310	

6. Average pounds of food fed per day is (a) _____ pounds of (b) _____ (type of food).

IV. Irrigation Activities With Point Return Flows

1. (a) Check here if discharge occurs all year ☐ or (b) check the month(s) discharge occurs:
   1. ☐ January 2. ☐ February 3. ☐ March 4. ☐ April 5. ☐ May 6. ☐ June 7. ☐ July 8. ☐ August 9. ☐ September 10. ☐ October 11. ☐ November 12. ☐ December.
2. Estimate the total number of acres under irrigation using (a) surface method of irrigation _____ acres or (b) a sprinkler method of irrigation _____ acres or (c) other methods of irrigation _____ acres.
3. Estimate the total water (a) diverted for irrigation by this activity _____ acre-feet/year (b) return to surface waters from flow return (e.g., stream) _____ acre-feet/year.
4. Estimate the number of separate points at which:
   (a) Water is diverted for irrigation ____;
   (b) Water is returned to surface waters _____

[FR Doc.73-8378 Filed 5-2-73;8:45 am]

[40 CFR Part 133]

SECONDARY TREATMENT INFORMATION

Notice of Proposed Rulemaking

Correction

In FR Doc. 73-8305 appearing at page 10642 in the issue of Monday, April 30, 1973, make the following changes:

1. The table in § 133.102 should read as follows:

	Unit of measurement	Monthly average	Weekly average
Biochemical oxygen demand (5 day).	mg./l.	30	45
Suspended solids	mg./l.	30	45
Fecal coliform bacteria.	Number/100 ml.	200	400
pH	units	Within limits of 6.0 to 9.0.	

2. In the sixth line of § 133.102(a), the word "means" should read "mean".

3. The file line should read as follows:

[FR Doc.73-8305 Filed 4-27-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19727; FCC 73-440]

FM BROADCAST STATIONS IN NEW BERN AND MOREHEAD CITY-BEAUFORT, N.C.

Proposed Table of Assignments

In the matter of amendment of § 73.202(b), Table of Assignments, FM broadcast stations. (New Bern and Morehead City-Beaufort, N.C.), Docket No. 19727, RM-1981.

1. On May 22, 1972, New Bern Broadcasting, Inc. (New Bern), licensee of standard broadcast station WHIT at New Bern, N.C., filed a petition with this Commission (errata filed on June 2, 1972) requesting the reassignment of class C FM channel 270 from Morehead City-Beaufort, N.C., to New Bern, N.C., and the replacement of channel 270 with channel 265A at Morehead City-Beaufort, N.C. No other revisions in our FM table of assignments were proposed. A brief supporting statement was filed by Mr. Benjamin Potter, et al., on June 19, 1972.

2. New Bern, N.C. (population 14,660), is the largest city in, and seat of, Craven County (population 62,554).[1] The only FM assignment at New Bern is class C channel 293 which is licensed to V.W.B., Inc. (WSFL) for use at Bridgeton, N.C., a community adjacent to New Bern. The only standard broadcast station located in New Bern (both class IV) are: WHIT, licensed to petitioner, and WRNB, licensed to Jefferay Broadcasting Corp., Carteret County, N.C., with a population of 31,603, contains Morehead City (population 5,233) and nearby Beaufort (population 3,368) with a combined population of 8,601 persons. FM channels 240A and 270 are assigned on a hyphenated basis to Morehead City-Beaufort. The former channel has a construction permit outstanding for its use which is held by Carteret Broadcasting Co. The latter channel has no application pending for its use. Class IV AM station WBMA is licensed to Mr. Richard Ray Cummins at Beaufort, while daytime-only AM station WMBL is licensed to Carteret Broadcasting Co. at Morehead City.

3. Petitioner advises us that New Bern is located at the confluence of the Neuse and Trent Rivers, in the central coastal region of eastern North Carolina. It is asserted that it is the principal city of the lower Neuse River basin in the Southeast Coastal Plain and as such, that it serves as the focal point of economic, social, and cultural activities in the area. Petitioner goes on to point out that the population of Morehead City-Beaufort is only 58.7 percent of that of New Bern and that Carteret County has only 50.5 percent of the population of Craven County.

4. With regard to facts concerning New Bern solely, petitioner advises us that the community is somewhat isolated with the nearest city having a population of over 25,000, Kinston, N.C., being approximately 30 miles distant. The closest community with a population of over 50,000 is Goldsboro, N.C., approximately 54 miles distant. In connection with economics New Bern states:

> In 1968, there were 72 manufacturing establishments in Craven County which employed approximately 2,627 workers. The principal types of manufacturing are needlecraft, lumber, boatbuilding, plywood, food, machine and hand powertools. Moreover, the city of New Bern is the retail shopping center of a five county area encompassing a gross trading area of about 150,000 people (1968). All of the major shopping district is modern with up-to-date stores including air-conditioning.

The petition also sets out a series of facts concerning the importance of New Bern as a wholesale and distributing center for a wide area of the coastal region of North Carolina. In respect to transportation petitioner notes that—three railroads link New Bern with all major rail services; the city has 18 truck-lines; the community is served by Piedmont Airlines; the Seashore Transportation Co. busline provides local and regional transportation; and that New Bern is intersected by three major highways (U.S. 17, U.S. 70 and N.C. 55). New Bern also has the benefit of a 12-foot channel in the Neuse River which connects the community to the Intra-Coastal Waterway.

5. As to educational facilities, petitioner states:

> The city of New Bern has 10 elementary, 1 junior high school and 2 high schools (as of 1969). In addition, the county has 11 elementary schools and 4 high schools under its jurisdiction. The curricula affords the students extensive college preparatory offerings as well as solid vocational programs. School and community leaders in New Bern and Craven County realize that industry needs people with sound vocational educational backgrounds in addition to individuals with college educations. Thus, the high schools have continued all vocational programs in the curricula to offer the best and broadest possible educational training for all students enrolled. New Bern also has a Catholic parochial school and Trent Academy, a private institution, serving grades one through eight. The Craven County Technical Institute offers to high school graduates, business technology curricula for which associate degrees in applied sciences are awarded, higher vocational programs and evening courses for part-time students.

6. Our engineering analysis indicates that the proposed reallocations are feasible and that the proposed assignment of channel 270 to New Bern would foreclose future assignments only on channel 272A. Within the precluded area there is but one community (Plymouth, pop. 4,774) where FM channel 272A could be assigned if channel 270 were not assigned to New Bern. Channel 240A is presently assigned to that community and has no application pending for its use.

7. Our examination of the pleadings indicates that New Bern not only advances its proposal by setting out the above facts, but furthermore, it points out the additional possible public interest factor involved in the proposed reassignments, i.e., if class C channel 270 is reassigned from Morehead City-Beaufort to New Bern that community will have two equal wide-coverage FM services, and if channel 265A is assigned to Morehead City-Beaufort in place of channel 270 those communities will have two technically competitive class A assignments. Accordingly, in view of all the foregoing, we consider it in the public interest to propose the reassignment of FM channel 270 from Morehead City-Beaufort to New Bern[2] and to replace channel 270

[1] All population figures cited are from the 1970 U.S. Census unless otherwise specified.

[2] The channel would have to be used with a transmitter site at least 9 miles east of New Bern.

at Morehead City-Beaufort with either channel 265A or channel 277 since there are a reasonable number of wide-coverage channels available in the Morehead City-Beaufort area.

8. In view of the foregoing, we propose for consideration the following revisions in the FM table of assignments (§ 73.202(b) of the rules) with respect to the cities listed below:

City	Channel No.	
	Present	Proposed
New Bern, N.C.	293	270, 293.
Morehead City-Beaufort, N.C.	240A, 270	Alternative proposal 1, 240A, 265A. Alternative proposal 2, 240A, 277.

9. Authority for the actions proposed herein is contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

10. *Showings required.*—Comments are invited on the proposals discussed and set forth above. Proponents of any particular assignment, be it at New Bern, N.C., or Morehead City-Beaufort, N.C., are expected to file comments which at a minimum incorporate their former pleadings by reference, restate their present intentions to apply for the channel if it is assigned and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

11. *Cutoff procedures.*—The following procedures will govern the consideration of filings in this proceeding:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered, if advanced in reply comments.

(b) With respect to petitions for rulemaking which conflict with the proposals in this notice, they will be considered as comments in the preceeding, and public notice to this effect will be given, as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

12. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before June 6, 1973, and reply comments on or before June 15, 1973. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings.

13. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

14. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C. (1919 M Street NW.).

Adopted April 25, 1973.

Released April 30, 1973.

FEDERAL COMMUNICATIONS COMMISSION [1]

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

[FR Doc.73-8704 Filed 5-2-73;8:45 am]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Parts 506, 506a]

[No. 73-521]

FEDERAL HOME LOAN BANK BOARD SECURITIES

Proposal Regarding Book-Entry Procedures

APRIL 10, 1973.

The Treasury Department has published regulations (31 CFR part 306, subpart O) which provide for the issuance and custody of Treasury securities as a magnetic record stored on a computer (book-entry security) in place of the traditional "piece of paper" (definitive security). This permits transactions (transfer, pledge, etc.) in book-entry securities to be effected by means of wire messages. While only the Federal Reserve Bank of New York now has the full capability for handling such an operation, the ultimate objective is a fully automated Government securities market, including both Treasury and Federal agency obligations, throughout the 12 Federal Reserve districts.

The Federal Reserve Bank of New York, which acts as fiscal agent for the issuance and servicing of Federal home loan bank consolidated obligations, urges the adoption of appropriate regulations by the Board for the issuance of its securities in book-entry form. While § 506.3 of the Board's "General Regulations" adopts "the general" Treasury regulations pertaining to U.S. securities, insofar as these are applicable, the Federal Reserve Bank of New York recommends that the Board promulgate its own book-entry regulations, patterned after subpart O, referred to above. This has been done by amending § 506.3, and by adding a new part, part 506a, as part of the "General Regulations" of the Federal Home Loan Bank Board, as set forth below. The Board has authority to adopt such regulations under § 11(c) of the Federal Home Loan Bank Act which authorizes it to issue consolidated Federal home loan bank bonds "upon such terms and conditions as the Board may prescribe."

The general contents of the proposed part 506a may be summarized as follows: Section 506a.1 contains necessary definitions. Section 506a.2 outlines the authority of a Federal Reserve bank to issue and generally deal in such securities. Section 506a.3 deals with the scope and effect of the proposed book-entry procedure; and § 506a.4 provides for the transfer and pledge of such book-entry securities. Subparagraph (a) of the latter section further provides that the provisions of that section shall preempt any conflicting provision of State law with respect to the transfer and/or pledge of such securities. Section 506a.5 provides that at all times the owner of the book-entry security may request its delivery as a definitive security. Section 506a.6 sets forth the obligation of a Federal Reserve bank with respect to the handling of such securities; and § 506a.7 provides for the assignment of registered Federal home loan bank securities for conversion to book-entry form, although as of this date all outstanding Federal home loan bank securities are in bearer form. Section 506a.8 provides for payment of interest on such book-entry securities and for their redemption. And, finally, § 506a.9 has been added to comply with the requirement of § 15 of the Federal Home Loan Bank Act that "All obligations of the Federal home loan banks shall plainly state that such obligations are not obligations of the United States and are not guaranteed by the United States" since that caveat would not appear on the security in its book-entry form.

In order to carry out these proposals the Board would amend subchapter A of chapter V of title 12 of the Code of Federal Regulations substantially as set forth below:

1. It is proposed to amend § 506.3 by inserting in it the phrase "except subpart O of Treasury Department Circular No. 300 (31 CFR part 306, as amended) regarding book-entry procedure", so that it will read as follows:

§ 506.3 Transactions in consolidated bonds (transfers, exchanges, redemptions, etc.).

The general regulations of the Treasury Department now or hereafter in force governing transactions in United States securities, except subpart O of Treasury Department Circular No. 300 (31 CFR part 306, as amended) regarding book-entry procedure, are hereby adopted, so far as applicable and as necessarily modified to relate to consolidated Federal home loan bank bonds, as the regulations of the Board for similar transactions in consolidated Federal home loan bank bonds. Book-entry procedure for consolidated Federal home loan bank bonds is contained in part 506a of this subchapter.

PART 506a—BOOK-ENTRY PROCEDURE FOR FEDERAL HOME LOAN BANK SECURITIES

2. It is proposed to add part 506a as a new part, immediately following part 506, as follows:

Sec.

[1] Commissioners Reid and Wiley absent.

Sec.
506a.9 Obligation of United States with respect to Federal home loan bank securities.

AUTHORITY.—Sec. 11, 47 Stat. 733, as amended; sec. 17, 47 Stat. 736, as amended, 12 U.S.C. 1431, 1437; Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1947 Supp.

§ 506a.1 Definition of terms.

In this part, unless the context otherwise requires or indicates:

(a) "Reserve bank" means the Federal Reserve Bank of New York (and any other Federal Reserve bank which agrees to issue Federal home loan bank securities in book-entry form) acting as fiscal agent of the Federal home loan banks and, when indicated, acting in its individual capacity.

(b) "Federal home loan bank security" means a consolidated bond or consolidated note of the Federal home loan banks issued by the Federal Home Loan Bank Board under the Federal Home Loan Bank Act, as amended, in the form of a definitive Federal home loan bank security or a book-entry Federal home loan bank security.[1]

(c) "Definitive Federal home loan bank security" means a Federal home loan bank security in engraved or printed form.

(d) "Book-entry Federal home loan bank security" means a Federal home loan bank security in the form of an entry made as prescribed in this part on the records of a Reserve bank.

(e) "Pledge" includes a pledge of, or any other security interest in, Federal home loan bank securities as collateral for loans or advances or to secure deposits of public moneys or the performance of an obligation.

(f) "Date of call" is the date fixed in the official notice of call published in the FEDERAL REGISTER on which the Federal home loan banks will make payment of the security before maturity in accordance with its terms.

(g) "Member bank" means any national bank, State bank, or bank or trust company which is a member of a Reserve bank.

§ 506a.2 Authority of Reserve banks.

Each Reserve bank is hereby authorized, in accordance with the provisions of this part, to (a) issue book-entry Federal home loan bank securities by means of entries on its records which shall include the name of the depositor, the amount, the series, and maturity date; (b) effect conversions between book-entry Federal home loan bank securities and definitive Federal home loan bank securities; (c) otherwise service and maintain book-entry Federal home loan bank securities; and (d) issue a confirmation of transaction in the form of a written advice (serially numbered or otherwise) which specifies the amount and description of any securities, that is, series and maturity date, sold or transferred and the date of the transaction.

[1] Consolidated bonds issued with maturities of 1 year or less may be designated consolidated notes.

§ 506a.3 Scope and effect of book-entry procedure.

(a) A Reserve bank as fiscal agent of the Federal home loan banks may apply the book-entry procedure provided for in this part to any Federal home loan bank securities which have been or are hereafter deposited for any purpose in accounts with it in its individual capacity under terms and conditions which indicate that the Reserve bank will continue to maintain such deposit accounts in its individual capacity, notwithstanding application of the book-entry procedure to such securities. This paragraph is applicable, but not limited, to such securities deposited:

(1) As collateral pledged to a Reserve bank (in its individual capacity) for advances by it;

(2) By a member bank for its sole account;

(3) By a member bank held for the account of its customers;

(4) In connection with deposits in a member bank of funds of States, municipalities, or other political subdivisions; or

(5) In connection with the performance of an obligation or duty under Federal, State, municipal, or local law, or judgments or decrees of courts.

The application of the book-entry procedure under this paragraph shall not derogate from or adversely affect the relationships that would otherwise exist between a Reserve bank in its individual capacity and its depositors concerning any deposits under this paragraph. Whenever the book-entry procedure is applied to such Federal home loan bank securities, the Reserve bank is authorized to take all action necessary in respect of the book-entry procedure to enable such Reserve bank in its individual capacity to perform its obligations as depositary with respect to such Federal home loan bank securities.

(b) A Reserve bank as fiscal agent of the Federal home loan banks may apply the book-entry procedure to Federal home loan bank securities deposited as collateral pledged to the United States under Treasury Department Circulars Nos. 92 and 176, both as revised and amended, and may apply the book-entry procedure, with the approval of the Secretary of the Treasury, to any other Federal home loan bank securities deposited with a Reserve bank as fiscal agent of the United States.

(c) Any person having an interest in Federal home loan bank securities which are deposited with a Reserve bank (in either its individual capacity or as fiscal agent of the United States) for any purpose shall be deemed to have consented to their conversion to book-entry Federal home loan bank securities pursuant to the provisions of this part, and in the manner and under the procedures prescribed by the Reserve bank.

(d) No deposits shall be accepted under this section on or after the date of maturity or call of the securities.

§ 506a.4 Transfer or pledge.

(a) A transfer or a pledge of book-entry Federal home loan bank securities to a Reserve bank (in its individual capacity or as fiscal agent of the Federal home loan banks), or to the United States, or to any transferee or pledgee eligible to maintain an appropriate book-entry account in its name with a Reserve bank under this part, is effected and perfected, notwithstanding any provision of law to the contrary, by a Reserve bank making an appropriate entry in its records of the securities transferred or pledged. The making of such an entry in the records of a Reserve bank shall (1) have the effect of a delivery in bearer form of definitive Federal home loan bank securities; (2) have the effect of a taking of delivery by the transferee or pledgee; (3) constitute the transferee or pledgee a holder; and (4) if a pledge, effect a perfected security interest therein in favor of the pledgee. A transfer or pledge of book-entry Federal home loan bank securities effected under this paragraph shall have priority over any transfer, pledge, or other interest, theretofore or thereafter effected or perfected under paragraph (b) of this section or in any other manner.

(b) A transfer or a pledge of transferable Federal home loan bank securities, or any interest therein, which is maintained by a Reserve bank (in its individual capacity or as fiscal agent of the Federal home loan banks) in a book-entry account under this part, including securities in book-entry form under § 506a.3(a)(3) of the "General Regulations" of the Federal Home Loan Bank Board, is effected, and a pledge is perfected, by any means that would be effective under applicable law to effect a transfer or to effect and perfect a pledge of the Federal home loan bank securities, or any interest therein, if the securities were maintained by the Reserve bank in bearer definitive form. For purposes of transfer or pledge hereunder, book-entry Federal home loan bank securities maintained by a Reserve bank shall, notwithstanding any provision of law to the contrary, be deemed to be maintained in bearer definitive form. A Reserve bank maintaining book-entry Federal home loan bank securities either in its individual capacity or as fiscal agent of the United States is not a bailee for purposes of notification of pledges of those securities under this paragraph, or a third person in possession for purposes of acknowledgment of transfers thereof under this paragraph. Where transferable Federal home loan bank securities are recorded on the books of a depositary (a bank, banking institution, financial firm, or similar party, which regularly accepts in the course of its business Federal home loan bank securities as a custodial service for customers, and maintains accounts in the name of such customers reflecting ownership of or interest in such securities) for account of the pledgor or transferor thereof and such securities are on deposit with a Reserve bank in a book-entry account hereunder, such depositary shall, for purposes of perfecting a pledge of such securities or effecting delivery of such securities to a purchaser under applicable provisions of law, be the bailee to

which notification of the pledge of the securities may be given or the third person in possession from which acknowledgment of the holding of the securities for the purchaser may be obtained. A Reserve bank will not accept notice or advice of a transfer or pledge effected or perfected under this paragraph, and any such notice or advice shall have no effect. A Reserve bank may continue to deal with its depositor in accordance with the provisions of this part, notwithstanding any transfer or pledge effected or perfected under this paragraph.

(c) No filing or recording with a public recording office or officer shall be necessary or effective with respect to any transfer or pledge of book-entry Federal home loan bank securities or any interest therein.

(d) A Reserve bank shall, upon receipt of appropriate instructions, convert book-entry Federal home loan bank securities into definitive Federal home loan bank securities and deliver them in accordance with such instructions; no such conversion shall affect existing interests in such Federal home loan bank securities.

(e) A transfer of book-entry Federal home loan bank securities within a Reserve bank shall be made in accordance with procedures established by the Reserve bank not inconsistent with this part. The transfer of book-entry Federal home loan bank securities by a Reserve bank may be made through a telegraphic transfer procedure.

(f) All requests for transfer or withdrawal must be made prior to the maturity or date of call of the securities.

§ 506a.5 Withdrawal of Federal home loan bank securities.

(a) A depositor of book-entry Federal home loan bank securities may withdraw them from a Reserve bank by requesting delivery of like definitive Federal home loan bank securities to itself or on its order to a transferee.

(b) Federal home loan bank securities which are actually to be delivered upon withdrawal may be issued in bearer form only until the date of the first issue of such securities in registered form; thereafter, all Federal home loan bank securites, regardless of form of original issue, which are actually to be delivered upon withdrawal may be issued in bearer or registered form.

§ 506a.6 Delivery of Federal home loan bank securities.

A Reserve bank which has received Federal home loan bank securities and effected pledges, made entries regarding them, or transferred or delivered them according to the instructions of its depositor is not liable for conversion or for participation in breach of fiduciary duty even though the depositor had no right to dispose of or take other action in respect of the securities. A Reserve bank shall be fully discharged of its obligations under this part by the delivery of Federal home loan bank securites in definitive form to its depositor or upon the order of such depositor. Customers of a member bank or other depositary (other than a Reserve bank) may obtain Federal home loan bank securities in definitive form only by causing the depositor of the Reserve bank to order the withdrawal thereof from the Reserve bank.

§ 506a.7 Registered bonds and notes.

Registered Federal home loan bank securities deposited with a Reserve bank for any purpose specified in § 506a.3 shall be assigned for conversion to book-entry Federal home loan bank securities. The assignment, which shall be executed in accordance with the provisions of subpart F of 31 CFR part 306, so far as applicable, shall be to "Federal Reserve Bank of _____, as fiscal agent of the Federal home loan banks, for conversion to book-entry Federal home loan bank securities."

§ 506a.8 Servicing book-entry Federal home loan bank securities; payment of interest; payment at maturity or upon call.

Interest becoming due on book-entry Federal home loan bank securities shall be charged in the Federal Home Loan Bank Board's symbol account with the Treasurer of the United States on the interest due date and remitted or credited in accordance with the depositor's instructions. Such securities shall be redeemed and charged in the same account on the date of maturity, call or advance refunding, and the redemption proceeds, principal and interest, shall be disposed of in accordance with the depositor's instructions.

§ 506a.9 Obligation of United States with respect to Federal home loan bank securities.

Federal home loan bank securities are not obligations of the United States and are not guaranteed by the United States.

Interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, D.C. 20552, by May 18, 1973, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the "General Regulations" of the Federal Home Loan Bank Board (12 CFR 505.6).

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER,
Secretary.

[FR Doc.73-8749 Filed 5-2-73;8:45 am]

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF THE TREASURY

Office of the Secretary

[T.D. Order No. 191-3 (Rev.)]

DEPUTY ASSISTANT SECRETARY ET AL.

Order of Succession Authorized To Act as Assistant Secretary of the Treasury, Enforcement, Tariff and Trade Affairs and Operations

The following officials of the Office of the Assistant Secretary (Enforcement, Tariff and Trade Affairs and Operations) in the order of succession enumerated herein are hereby authorized and directed to act as Assistant Secretary (Enforcement, Tariff and Trade Affairs and Operations) and to perform all of the functions of that office consistent with TDO 190 (revised), during the absence or disability of the Assistant Secretary or when there is a vacancy in that office:

1. Deputy Assistant Secretary;
2. Deputy Assistant Secretary for Enforcement;
3. Deputy to the Assistant Secretary (Tariff and Trade Affairs).

Treasury Department Order 191-3, dated July 7, 1972, designating officials to act in the absence of the Assistant Secretary (Enforcement, Tariff and Trade Affairs and Operations) is hereby revoked.

Dated April 26, 1973.

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

[FR Doc.73-8678 Filed 5-2-73;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

ADVISORY GROUP ON ELECTRON DEVICES

Notice of Advisory Committee Meeting

The Department of Defense Advisory Group on Electron Devices will meet in closed session at 201 Varick Street, New York, N.Y., May 10, 1973.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Comptroller).

[FR Doc.73-8642 Filed 5-2-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

CY 1973 HERBICIDE USE ON THE OLYMPIC, MOUNT BAKER, SNOQUALMIE, AND GIFFORD PINCHOT NATIONAL FORESTS

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 herbicide use on the Olympic, Mount Baker, Snoqualmie, and Gifford Pinchot National Forests, USDA-FS-FES (Adm.) 73-31.

The environmental statement concerns a proposed herbicide program for control of undesirable vegetation.

This final environmental statement was filed with CEQ on April 4, 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, D.C. 20250.
Mount Baker National Forest, Federal Office Building, Bellingham, Wash. 98225.
Snoqualmie National Forest, 1601 Second Avenue Building, Seattle, Wash. 98101.
Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, Wash. 98660.
Olympic National Forest, Federal Building, Olympia, Wash. 98501.

A limited number of single copies are available upon request to Regional Forester T. A. Schlapfer, Pacific Northwest Region, 319 Southwest Pine Street, Portland, Oreg. 97208.

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.

APRIL 26, 1973.

[FR Doc.73-8646 Filed 5-2-73;8:45 am]

OPERATION OF BLANCHARD SPRINGS CAVERNS

Notice of Availability of Draft 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 draft environmental statement for the operation of Blanchard Springs Caverns.

The environmental statement concerns the following action:

Administrative action.—Operation and administration, beginning in July 1973, of a system of unusually beautiful and unique caverns for enjoyment and study by the public under the administrative policies of USDA Forest Service. The development consists of a visitor information center with elevators to the caverns; 0.7 mile of paved and curbed caverns trails; indirect caverns lighting; water, sewer, and electrical systems; shelter cave day use area for picnicking and swimming; and supporting roads, hiking trails and parking facilities.

This draft environmental statement was filed with CEQ on April 20, 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, D.C. 20250.
USDA, Forest Service, 1720 Peachtree Road NW., room 806, Atlanta, Ga. 30309.
USDA, Forest Service, Forest Supervisor, Ozark-St. Francis National Forest, Box 340, Russellville, Ark. 72801.

A limited number of single copies are available upon request to Forest Supervisor, Ozark-St. Francis National Forest, Box 340, Russellville, Ark. 72801.

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.

APRIL 27, 1973.

[FR Doc.73-8647 Filed 5-2-73;8:45 am]

PROPOSAL TO EXCHANGE LANDS BETWEEN U.S. GOVERNMENT AND JOHN S. HAMILTON, JR.

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 to exchange lands between the U.S. Government and John S. Hamilton, Jr.

The environmental statement considers probable environmental effects or impacts of a proposal for the exchange of lands on the Gila National Forest between the U.S. Government and John S. Hamilton, Jr.

The final environmental statement was filed with CEQ on April 20, 1973.

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

USDA, Forest Service, South Agriculture Building, room 3230, 14th Street and Independence Avenue SW., Washington, D.C. 20250.
USDA, Forest Service, Southwestern Region, 517 Gold Avenue SW., Albuquerque, N. Mex. 87101.
Gila National Forest, 301 West College Avenue, Silver City, N. Mex. 88061.

Copies are available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151; and Colorado Plateau Environmental Advisory Council, P.O. Box 1389, Flagstaff, Ariz. 85001. Please refer to the name and number of the environmental statement above when ordering.

A limited number of single copies are available upon request to William D. Hurst, Regional Forester, Southwestern Region, U.S. Forest Service, 517 Gold Avenue SW., Albuquerque, N. Mex. 87101.

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.

APRIL 26, 1973.

[FR Doc.73-8644 Filed 5-2-73;8:45 am]

SALMON RIVER BREAKS PRIMITIVE AREA PUBLIC ADVISORY COMMITTEE

Notice of Meeting; Correction

The Salmon River Breaks Primitive Area Public Advisory Committee will meet on Tuesday, May 22, 1973, at 9 a.m. at the Holiday Inn, Missoula, Mont. The purpose of the meeting will be to present the results of the public reaction to the management alternatives for the primitive area and to obtain Committee advice on a management proposal.

The meeting will be open to the public. Persons who wish to attend should notify Ray D. Hunter, Bitterroot National Forest, 316 North Third Street, Hamilton, Mont. 59840, telephone: 406-363-3131.

Written statements may be filed with the Committee until 12 noon on May 22, 1973. Discussion and debate between the public and the Committee is not within the scope of the meeting.

Dated April 26, 1973.

ORVILLE L. DANIELS,
Forest Supervisor,
Bitterroot National Forest.

[FR Doc.73-8770 Filed 5-2-73;8:45 am]

VEGETATION CONTROL WITH HERBICIDES IN STATE OF ARIZONA

Notice of Availability of Draft 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 draft environmental statement of a proposal for vegetation control with herbicides in the State of Arizona, Apache and Coconino National Forests.

The purpose of the statement is for the control of invading snakeweed and iris. There should be no significant environmental impact, and careful site selection should minimize adverse environmental effects on water organisms and the air.

The draft environmental statement was filed with CEQ on April 19, 1973.

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

USDA, Forest Service, South Agriculture Building, room 3230, 14th Street and Independence Avenue SW., Washington, D.C. 20250.
USDA, Forest Service, Southwestern Region, 517 Gold Avenue SW., Albuquerque, N. Mex. 87101.
Apache National Forest, Box 640, Springerville, Ariz. 85938.
Coconino National Forest, P.O. Box 1268, Flagstaff, Ariz. 86002.

Copies are available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151; and Colorado Plateau Environmental Advisory Council, P.O. Box 1389, Flagstaff, Ariz. 86001. Please refer to the name and number of the environmental statement above when ordering.

A limited number of single copies are available upon request to William D. Hurst, Regional Forester, Southwestern Region, U.S. Forest Service, 517 Gold Avenue SW., Albuquerque, N. Mex. 87101.

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 involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Hallie Cox, Apache National Forest, Box 640, Springerville, Ariz. 85938 and Forest Supervisor Don Seaman, Coconino National Forest, P.O. Box 1268, Flagstaff, Ariz. 86002. Comments must be received by June 1, 1973, in order to be considered in the preparation of the final environmental statement.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

APRIL 27, 1973.

[FR Doc.73-8648 Filed 5-2-73;8:45 am]

VEGETATION CONTROL WITH HERBICIDES IN STATE OF NEW MEXICO

Notice of Availability of Draft 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 draft environmental statement of a proposal for vegetation control with herbicides in the State of New Mexico, Apache and Santa Fe National Forests.

The purpose of the statement is for the control of invading sagebrush, rabbitbrush, snakeweed, and pingue. There should be no significant environmental impact, and careful site selection should minimize adverse environmental effects on water organisms and the air.

The draft environmental statement was filed with CEQ on April 13, 1973.

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

USDA, Forest Service, South Agriculture Bldg., room 3230, 14th St. & Independence Avenue SW., Washington, D.C. 20250.
USDA, Forest Service, Southwestern Region, 517 Gold Avenue SW., Albuquerque, N. Mex. 87101.
Apache National Forest, Box 640, Springerville, Ariz. 85938.
Santa Fe National Forest, P.O. Box 1689, Santa Fe, N. Mex. 87501.

Copies are available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151; and Colorado Plateau Environmental Advisory Council, P.O. Box 1389, Flagstaff, Ariz. 86001. Please refer to the name and number of the environmental statement above when ordering.

A limited number of single copies are available upon request to William D. Hurst, Regional Forester, Southwestern Region, U.S. Forest Service, 517 Gold Avenue SW., Albuquerque, N. Mex. 87101.

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 involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Hallie Cox, Apache National Forest, Box 640, Springerville, Ariz. 85938 and Forest Supervisor John Hall, Santa Fe National Forest, P.O. Box 1689, Santa Fe, N. Mex. 87501. Comments must be received by May 13, 1973, in order to be considered in the preparation of the final environmental statement.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

APRIL 26, 1973.

[FR Doc.73-8645 Filed 5-2-73;8:45 am]

Office of the Secretary

GRAINS—WHEAT, FEED GRAINS, AND SOYBEANS

Establishment of Advisory Committee

Notice is hereby given that the Secretary of Agriculture will appoint an advisory committee on grains—wheat, feed grains, and soybeans, for the purpose of advising the Secretary and other officials on domestic and export requirements for

wheat, feed grains, and soybeans, production adjustment and stabilization programs, and other matters relating to these commodities. The Secretary has determined that establishment of this committee is in the public interest in connection with the duties imposed on the department by law.

The chairman of this committee will be the Assistant Secretary for International Affairs and Commodity Operations, U.S. Department of Agriculture, Washington, D.C. 20250.

This committee will report its recommendations directly to the Secretary. The committee will meet at the call of the chairman and will terminate 2 years from the date of its establishment.

This notice is given in compliance with Public Law 92-463. Views and comments of interested persons must be received by the Assistant Secretary on or before May 30, 1973.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Assistant Secretary for International Affairs and Commodity Operations during regular business hours (7 CFR 1.27(b)).

Dated April 30, 1973.

JOSEPH R. WRIGHT, Jr.,
Assistant Secretary for Administration.

[FR Doc.73-8767 Filed 5-2-73;8:45 am]

NATIONAL TOBACCO ADVISORY COMMITTEE

Establishment

Notice is hereby given that the Secretary of Agriculture will appoint a National Tobacco Advisory Committee for the purpose of advising the Secretary and other officials on domestic and export requirements for tobacco, production adjustment and stabilization programs, and other matters relating to this commodity. The Secretary has determined that establishment of this Committee is in the public interest in connection with the duties imposed on the Department by law.

The chairman of this Committee will be the Assistant Secretary for International Affairs and Commodity Operations, U.S. Department of Agriculture, Washington, D.C. 20250.

This Committee will report its recommendations directly to the Secretary. The Committee will meet at the call of the chairman and will terminate 2 years from the date of its establishment.

This notice is given in compliance with Public Law 92-463. Views and comments of interested persons must be received by the Assistant Secretary on or before May 30, 1973.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Assistant Secretary for International Affairs and Commodity Operations during regular business hours (7 CFR 1.27(b)).

Dated April 30, 1973.

JOSEPH R. WRIGHT, Jr.,
Assistant Secretary for Administration.

[FR Doc.73-8766 Filed 5-2-73;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

ROBERT ELSNER

Notice of Public Hearing Regarding Application for Economic Hardship Exemption for Marine Mammals

Notice is hereby given pursuant to the provisions of the Marine Mammal Protection Act of 1972 (Public Law 92-522) and the interim Department of Commerce regulations issued (37 FR 28177) in connection therewith, that a hearing will be held for the applicant described below, beginning at 10 a.m. local time in the United Portuguese Club, 2818 Addison Street, San Diego, Calif., on May 9, 1973, to consider an application for an undue economic hardship exemption to take various marine mammals for scientific research.

Dr. Robert Elsner, Associate Professor of Physiology, Scripps Institution of Oceanography, P.O. Box 109, La Jolla, Calif. 92037, telephone 714-453-1194, to take by shooting the following animals for scientific research: 20 spotted seals (*Phoca vitulina*), 10 bearded seals (*Erignathus barbatus*), 10 ringed seals (*Pusa hispida*), 5 ribbon seals (*Histriophoca fasciata*), and 10 northern sea lions (*Eumetopias jubatus*).

Individuals and organizations may express their views by appearing at this hearing or may submit written comments for inclusion in the official record to the Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, Calif. 90731, telephone 312-891-9575. Written comments will be accepted for the official record providing they are postmarked or received by midnight on May 29, 1973.

Dated May 1, 1973.

ROBERT W. SCHONING,
Director, National Marine Fisheries Service.

[FR Doc.73-8835 Filed 5-2-73;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N-73-151]

WILDWOOD VALLEY, GRENCO REAL ESTATE INVESTMENT TRUST ET AL.

Notice of Hearing

In the matter of Wildwood Valley, Grenco Real Estate Investment Trust, et al., Administrative Division Docket No. ED 73-2.

Notice is hereby given that:

1. Grenco Real Estate Investment Trust, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Public Law 90-448) (15 U.S.C. 1701 et seq.), received a notice of suspension dated March 27, 1973, which was sent to the developer pursuant to 15 U.S.C. 1706(b) and 24 CFR 1710.45(a) informing the developer that the amendment to its statement of record submitted on March 5, 1973, for Wildwood Valley was not effective pursuant to the act, and the regulations contained in 24 CFR part 1710.

2. The Respondent filed an answer received April 12, 1973, in answer to the allegations of the notice of suspension.

3. In said answer the respondent requested a hearing on the allegations contained in the notice of suspension.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(b) and 24 CFR 1720.155(b), *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the notice of suspension will be held before Harry S. McAlpin, Administrative Law Judge, in room 2133, Department of HUD Building, 451 Seventh Street SW., Washington, D.C., on May 24, 1973, at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, room 10150, Washington, D.C. 20410, on or before May 21, 1973.

5. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the suspension of the statement of record, herein identified, shall continue until vacated by order of the Secretary, pursuant to 24 CFR 1720.155.

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated April 27, 1973.

GEORGE K. BERNSTEIN,
Interstate Land Sales Administrator.

[FR Doc.73-8769 Filed 5-2-73;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 234]

ASSIGNMENT OF HEARINGS

APRIL 30, 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-F-11673, Reliance Truck Co.—purchase—Daigh & Stewart Truck Co., and MC-54567 sub 12, Reliance Truck Co., now assigned April 30, 1973, at Phoenix, Ariz., is postponed indefinitely.

AB-10-sub 3, Norfolk & Western Railway Co., abandonment between Abingdon, Va., and West Jefferson, N.C., in Washington and Grayson Counties, Va., and Ashe County, N.C., now assigned May 21, 1973, will be held in Blue Ridge Electric Co-op membership conference room, Mount Jefferson Road, West Jefferson, N.C.

F.D. No. 21989, Pennsylvania Railroad Co.—merger—New York Central Railroad Co., now being assigned hearing June 18, 1973 (2 weeks), at Wilkes-Barre, Pa., in a hearing room to be later designated.

MC 112822 sub 242, Bray Lines Inc., continued to May 30, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 136972, Midwest Contract Carriers, Inc., now assigned June 11, 1973, at Dallas, Tex., is canceled and application dismissed.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-8755 Filed 5-2-73;8:45 am]

[Notice 263]

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 May 23, 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-74357. By order of April 20, 1973, the Motor Carrier Board approved the transfer to Walter Potter, Goodlettsville, Tenn., of certificate No. MC-16550 issued December 29, 1953, to Roscoe V. Smith, Columbia, Tenn., authorizing the transportation of film and associated commodities, magazines, and newspapers between various points in Tennessee and Kentucky over described regular routes. Walter Potter, Route 4, Goodlettsville, Tenn. 37072, transferee.

No. MC-FC-74375. By order entered April 23, 1973, the Motor Carrier Board approved the transfer to J. J. Schilling, doing business as Superior Express, Waterloo, Ill., of the operating rights set forth in certificate No. MC-11151, issued August 16, 1954, to Marie Sprague Weis, doing business as Sprague Truck Service, Belleville, Ill., authorizing the transportation of general commodities, with the usual exceptions, between St. Louis, Mo., and Scott Field, Ill., over specified routes, serving all intermediate points, and points in St. Louis County, Mo., within the St. Louis, Mo.-East St. Louis, Ill., commercial zone as defined by the Commission. Marie Sprague Weis, 300 West Monroe St., Belleville, Ill. 62221, representative for applicants.

No. MC-FC-74390. By order entered April 25, 1973, the Motor Carrier Board approved the transfer to Star Van Lines, Inc., Pacific Grove, Calif., of the operating rights set forth in certificates Nos. MC-102298, MC-102298 (sub-No. 8), MC-102298 (sub-No. 9), MC-102298 (sub-No. 10), MC-102298 (sub-No. 12), MC-102298 (sub-No. 13), MC-102298 (sub-No. 14), MC-102298 (sub-No. 15), and MC-102298 (sub-No. 16), issued by the Commission January 11, 1956, May 21, 1957, September 11, 1957, February 28, 1958, June 12, 1958, August 8, 1960, May 1, 1961, October 15, 1965, and August 6, 1968, respectively, to Pan American Van Lines, Inc., Bellerose, N.Y., authorizing the transportation of household goods as defined by the Commission, between points in the United States, except Arizona, Idaho, Montana, Nevada, North Dakota, Oregon, Utah, Washington, Hawaii, and Alaska; peat moss, from points in the New York, N.Y., "exempt" zone to points in New Jersey, Connecticut, and specified points in New York; general commodities, except those of unusual value, classes A and B explosives, commodities in bulk, and those requiring special equipment, between Washington, D.C., and Indian Head, Md.; and emigrant movables, between points in Iowa, on the one hand, and, on the other, points in Nebraska, Kansas, Missouri, Illinois, Wisconsin, Minnesota, and South Dakota. Paul F. Sullivan, 711 Washington Building, Washington, D.C. 20005, attorney for transferee, and Edward M. Alfano, 2 West 45th Street, New York, N.Y., attorney for transferor.

No. MC-FC-74377. By order of April 23, 1973, the Motor Carrier Board approved the transfer to Marshfield Drayage Co., Marshfield, Mo., of certificates of registration No. MC-121631 issued December 19, 1968, and MC-121631 (sub-No. 1) issued November 5, 1971, evidencing a right to engage in transportation in interstate commerce corresponding in scope to certificate of convenience and necessity No. T-26,150 embraced in order dated June 29, 1968, and certificate of convenience and necessity No. T-26,150 sub 1 embraced in order dated August 5, 1971, issued by the Missouri Public Service Commission. Turner White, White, Dickey, and Allemann, 805 Woodruff Building, Springfield, Mo., applicants' attorney.

No. MC-FC-74394. By order of April 20, 1973, the Motor Carrier Board approved the transfer to E. F. Semas Trucking, Inc., Taunton, Mass., of certificate of registration No. MC-99984 (sub-No. 2) issued January 22, 1964, to Edward F. Semas, doing business as E. F. Semas Trucking, Taunton, Mass., evidencing a right to engage in transportation in interstate commerce as described in irregular route common carrier certificate No. 1464 dated September 21, 1960, issued by the Massachusetts Department of Public Utilities. Arthur A. Wentzell, P.O. Box 764, Worcester, Mass. 01613, representative for applicants.

No. MC-FC-74406. By order entered April 24, 1973, the Motor Carrier Board approved the transfer to Yoder Tourways, Inc., Mattawana, Pa., of the operating rights set forth in certificate No. MC-114571, issued March 1, 1955, to Luther J. Yoder, Mattawana, Pa., authorizing the transportation of passengers and their baggage, in roundtrip special and charter operations, beginning and ending at Lewistown, Yeagertown, Milroy, Granville, Mattawana, and McVeytown, Pa., and extending to points in New York, New Jersey, Delaware, West Virginia, and Ohio, and those in Virginia other than Mount Vernon, Va. Thomas M. Torquato, One East Market Street, Lewistown, Pa. 17044, attorney for applicants.

No. MC-FC-74416. By order of April 25, 1973, the Motor Carrier Board approved the transfer to Sacramento Freight Lines, Inc., Sacramento, Calif., of certificate of registration No. MC-99375 (sub-No. 1), issued June 22, 1967, to Fraser Trucking Co., Inc., Oakland, Calif., evidencing a right to engage in transportation in interstate commerce as described in certificate of public convenience and necessity granted by decision No. 57082, dated July 29, 1958, as amended by decision No. 57538, dated October 28, 1958, and No. 71276, dated September 13, 1966, and transferred by decision No. 81277, dated April 3, 1973, by the Public Utilities Commission of the State of California. Eldon M. Johnson, Suite 2808, 650 California Street, San Francisco, Calif. 94108, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-8756 Filed 5-2-73;8:45 am]

[Notice 34]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

APRIL 27, 1973.

The following applications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by

special rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission on or before June 4, 1973. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contained a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

No. MC 151 (sub-No. 51), filed March 13, 1973. Applicant: LOVELACE TRUCK SERVICE, INC., 2225 Wabash Avenue, Terre Haute, Ind. 47807. Applicant's representative: R. W. Burgess, 8514 Midland Boulevard, St. Louis, Mo. 63114. 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 commodities requiring special equipment); between Terre Haute, Ind., and Mount Vernon, Ill., on the one hand, and, on the other, the plantsite and warehouse facilities of the Anaconda Aluminum Co. located at or near Sebree, Ky.; (1) from Terre Haute, Ind., over U.S. Highway 41 to the plantsite and warehouse facilities of the Anaconda Aluminum Co. located at or near Sebree, Ky., and return over the same route; (2) from Mt. Vernon, Ill., over U.S. Highway 460 to the junction of U.S. Highway 41, thence over U.S. Highway 41 to the plantsite and warehouse facilities of the Anaconda Aluminum Co. located at or near Sebree, Ky., and return over the same route.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., Chicago, Ill., or St. Louis, Mo.

No. MC 531 (sub-No. 287), filed March 30, 1973. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, P.O. Box 14048, Houston, Tex. 77021. Applicant's representative: Wray E. Hughes (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from the P.P.G. Industries, Inc. plantsite at Natrium, W. Va., and Barberton, Ohio, to points in California.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif., or Washington, D.C.

No. MC 2202 (sub-No. 446), filed March 12, 1973. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, P.O. Box 471, Akron, Ohio 44309. Applicant's representative: William Slabaugh (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite and warehouse facilities of General Cable Corp., at or near Brandon, Miss., as an off-route point in connection with applicant's regular-route authority between Birmingham, Ala., and Dallas, Tex.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., Jackson, Miss., or Memphis, Tenn.

No. MC 2860 (sub-No. 122), filed March 16, 1973. Applicant: NATIONAL FREIGHT, INC., 57 West Park Avenue, Vineland, N.J. 08360. 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: *Fiberglass insulation and fiberglass insulation products*, from Shelbyville and Indianapolis, Ind., to points in Alabama, Arkansas, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority in MC-2860 and subs 5, 9, 27, 31, 35, 37, 74, 91, and 93 but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C. or Pittsburgh, Pa.

No. MC 3009 (sub-No. 85), filed March 29, 1973. Applicant: ROADWAY EXPRESS, INC. OF MISS., 1077 Gorge Boulevard, P.O. Box 471, Akron, Ohio 44309. Applicant's representative: James W. Conner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the terminal site of Roadway Express, Inc. of Miss., near Meridian, Miss., as an off-route point in connection with applicant's regular-route authority.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 3018 (sub-No. 27), filed March 16, 1973. Applicant: McKEOWN TRANSPORTATION CO., a corporation, 10448 South Western Avenue, Chicago, Ill. 60643. Applicant's representative: Gregory J. Scheurich, 111 West Washington Street, Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Compressed and liquefied hydrogen* in shipper-owned containers, from McCook, Ill., to points in New York, Massachusetts, Connecticut, New Jersey, Maryland, Delaware, Virginia, North Carolina, South Carolina, New Hampshire, Vermont, Maine, Rhode Island, Arkansas, Louisiana, Mississippi, and Georgia, under a continuing contract with Union Carbide Corp.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 3419 (sub-No. 10), filed March 14, 1973. Applicant: THE CLEVELAND, COLUMBUS & CINCINNATI HIGHWAY, INC., 215 Euclid Avenue, Cleveland, Ohio 44114. Applicant's representative: Martin J. Leavitt, 1800 Buhl

[1] Copies of special rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

Building, Detroit, Mich. 48226. 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 plantsite and facilities of the Ford Motor Co., Romeo, Mich., as an off-route point in connection with carrier's regular route operations to and from Detroit, Mich.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., Chicago, Ill., or Washington, D.C.

No. MC 8958 (sub-No. 26), filed March 28, 1973. Applicant: THE YOUNGSTOWN CARTAGE CO., a corporation, 825 West Federal Street, Youngstown, Ohio 44501. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between Chicago, Ill., points in Cook, Du Page, Lake, and Will Counties, Ill., and those in that part of Lake County, Ind., on and north of U.S. Highway 30, on the one hand, and, on the other, the plantsite and facilities of Ford Motor Co., at Romeo, Mich.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states it seeks no duplicating authority and is willing to accept restriction concerning duplicating authority. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 8973 (sub-No. 27), filed March 27, 1973. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. routes, transporting: (1) *Brick*, from Authority sought to operate as a *common carrier*, by motor vehicle, over irregular Gordonsville, Somerset, and Roanoke, Va., to points in New Jersey; Rockland, Orange, Westchester, Putnam, Sullivan, Suffolk, Ulster, Nassau, and Dutchess Counties, N.Y.; New York, N.Y.; points in Pennsylvania on and east of the Susquehanna River; and points in Fairfield County, Conn.; and (2) *lime* (except in bulk), from Devault, Pa. to points in New Jersey; Orange, Rockland, Westchester, Putnam, Sullivan, Suffolk, Ulster, Nassau, and Dutchess Counties, N.Y.; New York, N.Y.; and points in Fairfield County, Conn.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y. or Newark, N.J.

No. MC 13235 (sub-No. 21), filed March 13, 1973. Applicant: CENTRALIA CARTAGE CO., a corporation, 650 West Noleman Street, Centralia, Ill. 62802. Applicant's representative: R. W. Burgess, 8514 Midland Boulevard, St. Louis, Mo. 63114. 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 plantsite and warehouse facilities of the Anaconda Aluminum Co. located at or near Sebree, Ky., as an off-route point in connection with carrier's regular route authority between Evansville, Ind., and St. Louis, Mo.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., Chicago, Ill., or St. Louis, Mo.

No. MC 13893 (sub-No. 14), filed March 22, 1973. Applicant: J. W. WARD TRANSFER, INC., Highway 13, East, Murphysboro, Ill. 62966. Applicant's representative: John M. Nader, P.O. Box E, Bowling Green, Ky. 42101. 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), between Cairo, Ill. (except that portion of the Cairo, Ill., commercial zone, as defined by the Commission lying within the State of Missouri), and Louisville, Ky.: (a) From Cairo over U.S. Highway 51 to Carbondale, Ill., thence over Illinois Highway 13 to junction U.S. Highway 45, thence over U.S. Highway 45 to junction Illinois Highway 141, thence over Illinois Highway 141 to the Illinois-Indiana State line, thence over Indiana Highway 62 to Evansville, Ind., thence over U.S. Highway 41 to junction Indiana Highway 64, thence over Indiana Highway 64 to junction Interstate Highway 64, thence over Interstate Highway 64 to Louisville, and return over the same route, serving all intermediate points; and (b) from Cairo over U.S. Highway 51 to Carbondale, Ill., thence over Illinois Highway 13 to junction Illinois Highway 37, thence over Illinois Highway 37 to junction Illinois Highway 14, thence over Illinois Highway 14 to junction Illinois Highway 1, thence over Illinois Highway 1 to Mount Carmel, Ill., thence over Illinois Highway 15 to the Illinois-Indiana State line, thence over Indiana Highway 64 to junction Interstate Highway 64, thence over Interstate Highway 64 to Louisville, and return over the same route, serving all intermediate points.

NOTE.—Common control may be involved. Applicant states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Louisville, Henderson, or Owensboro, Ky.

No. MC 19945 (sub-No. 36), filed March 12, 1973. Applicant: BEHNKEN TRUCK SERVICE, INC., Route 13, New Athena, Ill. 62264. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Graphite scrap*, in bulk, in dump vehicles, from the plantsite and storage facilities, of Dow Chemical, U.S.A., at or near Russellville, Ark., to Bedford Park, Ill.

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 20491 (sub-No. 8), filed March 12, 1973. Applicant: SOL COHEN & SONS, INC., P.O. Office 141, Far Rockaway, N.Y. 11690. Applicant's representative: Herbert Burstein, 1 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Baggage, and personal effects of campers*, during the season extending from June 1 to October 1, inclusive, of each year, between points in Fairfield County, Conn., New York, N.Y., and points in Nassau, Suffolk, Westchester, and Rockland Counties, N.Y., and points in New Jersey, Pennsylvania, Delaware, Maryland, Virginia, Florida, and the District of Columbia, on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Pennsylvania, Massachusetts, Connecticut, and New York.

NOTE.—Applicant also holds contract carrier authority under MC 128715, therefore dual operations may be involved. Applicant states that the requested authority can be tacked with its existing authority but further states that upon approval of the application herein, would surrender its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 25869 (sub-No. 114), filed March 15, 1973. Applicant: NOLTE BROS. TRUCK LINE, INC., 6217 Gilmore Avenue, Omaha, Nebr. 68107. Applicant's representative: Donald L. Stern, suite 530, Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Monoglycerides, fatty acids, chemicals, cleaning compounds, drugs and medicines, toilet preparations, animal fats, foodstuffs, oils* (edible and inedible), *spices, condiments*, and *food additives*, from Chicago, Ill., and points in the Chicago, Ill., commercial zone as defined by the Commission, and Lorenzo, Ill., to Omaha, Nebr., and points in Nebraska.

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Chicago, Ill.

No. MC 27817 (sub-No. 106), filed March 30, 1973. Applicant: H. C. GABLER, INC., Rural Delivery No. 3, Chambersburg, Pa. 17201. 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: *Foodstuffs, canned, prepared or preserved, cooking or edible*

oils, matches, oleo-margarine, and shortening, not cold-packed or frozen, from the facilities of Hunt-Wesson Foods, Inc., at Toledo, Ohio, and its commercial zone, to points in West Virginia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Washington, D.C.

No. MC 29079 (sub-No. 65 (correction), filed March 19, 1973, published in the FEDERAL REGISTER issue of April 19, 1973, and republished as corrected this issue. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., 1210 Union Street, P.O. Box 395, Kikomo, Ind. 46901. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603.

NOTE.—The purpose of this republication is to show the correct docket number assigned thereto as shown above, in lieu of No. MC 29079 sub 69, which was in error.

No. MC 29120 (sub-No. 149), filed February 26, 1973. Applicant: ALL-AMERICAN TRANSPORT, INC., 900 West Delaware, Sioux Falls, S. Dak. 57104. Applicant's representative: Michael J. Ogborn (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (A) (1) *Agricultural machinery and equipment;* (2) *attachments;* (3) *engines;* (4) *equipment* designed to be used in conjunction with the above-described commodities; and (5) *materials, supplies, and equipment* used or useful in the manufacture or distribution of the above-named commodities (except commodities in bulk), from Salem, S. Dak., to points in Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, Pennsylvania, Tennessee, Wisconsin, and Wyoming, and (B) *materials, supplies, and equipment* used or useful in the manufacture or distribution of the above-named commodities (except commodities in bulk), and *parts and castings,* from points in the above-named States to Salem, S. Dak.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states no duplicating authority sought. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Sioux Falls or Mitchell, S. Dak.

No. MC 29120 (sub-No. 150), filed March 16, 1973. Applicant: ALL-AMERICAN, INC., 900 West Delaware, P.O. Box 769, Sioux Falls, S. Dak. 57101. Applicant's representative: Michael J. Ogborn (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Agricultural machinery and equipment, attachments, engines, equipment* designed to be used in conjunction with the above-described commodities, *equipment, materials, and supplies* used or useful in the manufacture or distribution of the above-described commodities (except commodities in bulk), and *wooden pallets,* from Armstrong, Iowa, to points in Colorado, Illinois, Indiana, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, Pennsylvania, South Dakota, Tennessee, Wisconsin, and Wyoming.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Applicant further states that no duplicating authority is being sought. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Sioux Falls, S. Dak., or Sioux City, Iowa.

No. MC 29120 (sub-No. 152), filed March 30, 1973. Applicant: ALL-AMERICAN, INC., 1500 Industrial Avenue, Sioux Falls, S. Dak. 57104. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (except commodities in bulk, household goods as defined by the Commission, classes A and B explosives, commodities requiring special equipment and hides), serving points in South Dakota east of the Missouri River as off-route points in connection with applicant's regular-route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Sioux Falls, S. Dak.

No. MC 31389 (sub-No. 163), filed March 14, 1973. Applicant: McLEAN TRUCKING COMPANY, a corporation, 617 Waughtown Street, P.O. Box 213, Winston-Salem, N.C. 27102. Applicant's representative: Francis W. McInerny, 1000 16th Street NW., Washington, D.C. 20036. 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 commodities requiring special equipment), serving the plantsites of Uniroyal, Inc., at or near Maryville, Mo., and Red Oak, Iowa, as off-route points in connection with applicant's regular-route authority.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., Jefferson City, Mo., or Omaha, Nebr.

No. MC 31600 (sub-No. 661), filed March 29, 1973. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham, Mass. 02154. Applicant's representative: John A. Roberts (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals,* in bulk, in tank vehicles, between points in New York (except those in the New York, N.Y., commercial zone as defined by the Commission), on the one hand, and, on the other, points in Connecticut, Massachusetts, New Hampshire, Rhode Island, Vermont, and Maine.

NOTE.—Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass., or Washington, D.C.

No. MC 33641 (sub-No. 100), filed March 9, 1973. Applicant: IML FREIGHT, INC., 2175 South 3270 West, Salt Lake City, Utah 80217. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen foods,* (a) from points in Utah to points in Illinois, Kansas, Kentucky, Missouri, Indiana, Ohio, and Pennsylvania, and (b) from points in Idaho to points in Pennsylvania.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah.

No. MC 37918 (sub-No. 11), filed March 7, 1973. Applicant: DIRECT WINTERS TRANSPORT LTD., 890 Caledonia Road, Toronto 19, Ontario, Canada. Applicant's representative: William J. Hirsch, suite 444, 35 Court Street, Buffalo, N.Y. 14202. 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 plantsite and facilities of Ford Motor Co., Romeo, Mich., as an off-route point in conection with carrier's regular route operate as a *common carrier,* by motor

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., Chicago, Ill., or Washington, D.C.

No. MC 43421 (sub-No. 45), filed April 2, 1973. Applicant: DOHRN TRANSFER CO., a corporation, 4026 Ninth Street, P.O. Box 1237, Rock Island, Ill. 61201. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, and classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite of French & Hecht at Walcott, Iowa, as an off-route point in connection with applicant's regular-route operations to and from Davenport, Iowa.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 46280 (sub-No. 73), filed March 15, 1973. Applicant: KEYLINE FREIGHT, INC., 15 Andre Street SE., Grand Rapids, Mich. 49507. Applicant's representative: Martin J. Leavitt, 1800 Buhl Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular 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), between the plantsite and facilities of the Ford Motor Co. located at Romeo, Macomb County, Mich., on the one hand, and, on the other, Omaha, Nebr.; Louisville, Ky.; St. Louis, Mo.; Evansville and Vincennes, Ind.; and points in that part of Indiana on and north of U.S. Highway 40, points in that part of Illinois on and north of a line beginning at the Indiana-Illinois State line and extending along U.S. Highway 36, to Springfield, Ill., thence along Illinois Highway 125 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction Illinois Highway 103, thence along Illinois Highway 103 to junction U.S. Highway 24 and thence along U.S. Highway 24 to the Illinois-Missouri State line, points in that part of Iowa on and east of U.S. Highway 65, points in that part of Minnesota on, east, and south of a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 65 to Minneapolis, Minn., and thence along U.S. Highway 12 to the Minnesota-Wisconsin State line, and points in that part of Wisconsin on and south of a line beginning at the Minnesota-Wisconsin State line and extending along U.S. Highway 12 to junction Wisconsin Highway 29, thence along Wisconsin Highway 29 to Green Bay, Wis., and thence along U.S. Highway 141 via Manitowoc, Wis., to the shore of Lake Michigan.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.; or Chicago, Ill.; or Washington, D.C.

No. MC 51146 (sub-No. 314), filed March 30, 1973. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54304. Applicant's representative: Charles Singer, suite 1000, 327 South La Salle Street, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic products* (except commodities in bulk), from Lewiston and Clearfield, Utah, to points in the United States (except Alaska and Hawaii); and (2) *equipment, materials, and supplies* used in the manufacture and distribution of plastic products (except commodities in bulk), from points in the United States (except Alaska and Hawaii), to Lewiston and Clearfield, Utah.

NOTE.—Common control may be involved. Applicant states that the requested authority will be tacked with any of its authority in No. MC-51146 and subs thereunder as feasible. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 52579 (sub-No. 137), filed March 12, 1973. Applicant: GILBERT CARRIER CORP., 1 Gilbert Drive, Secaucus, N.J. 07094. Applicant's representative: Irving Klein, 280 Broadway, New York, N.Y. 10007. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel* from the terminal site of Gilbert Carrier Corp. at Secaucus, N.J., to points in Bergen, Essex, Morris, Passaic, and Union Counties, N.J., and East Newark, Harrison, and Kearny, N.J., restricted to shipments having a prior movement via Gilbert Carrier Corp.

NOTE.—Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority at Secaucus, N.J., but does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 52614 (sub-No. 5), filed March 19, 1973. Applicant: R. S. POWELL, INC., Route 4, Box 673, Madison Heights, Va. 24572. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cast iron pipe and cast iron pipe fittings*, from Lynchburg, Va., to points in Delaware, Pennsylvania, Virginia, New Jersey, and Georgia, (2) *plastic pipe and tubing and plastic fittings*, from Lynchburg, Va., to points in New Jersey, Pennsylvania, Delaware, Maryland, West Virginia, Kentucky, Tennessee, South Carolina, North Carolina, Georgia, Florida, New York, Alabama, and the District of Columbia, under contract with Glamorgan Pipe & Foundry Co., Inc., an affiliate of Amsted Industries, Inc.; and (3) *cast iron pipe and cast iron pipe fittings*, from points in Burlington County, N.J., to points in Delaware, Maryland, Virginia, North Carolina, South Carolina, West Virginia, Kentucky, Ohio, New York, and the District of Columbia, under contract with Griffin Pipe Products Co., a subsidiary of Amsted Industries, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 52620 (sub-No. 9), filed January 31, 1973. Applicant: SOCKOL'S EXPRESS, INC., 48 Gleason Avenue, Stamford, Conn. 06902. Applicant's representative: John E. Fay, 630 Oakwood Avenue, suite 127, West Hartford, Conn. 06110. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *General commodities*, (1) between New York, N.Y., and Norwalk, Conn., over U.S. Highway 1, serving all intermediate points in Connecticut between Norwalk, Conn., and New York, N.Y., and also serving the intermediate and off-route points of Hoboken, Weehawken, Irvington, Jersey City, and Newark, N.J., and thence from Norwalk, Conn., over irregular routes serving all points in Connecticut and return to New York, via irregular routes from points in Connecticut to Norwalk, Conn., thence over U.S. Highway 1 to New York, N.Y.; and (2) between Danbury, Conn., and New York, N.Y., as an alternate route for operating convenience only, serving no intermediate points, and with service at Danbury limited to joinder only with the above-described routes in (1) from Danbury over U.S. Highway 6 to Brewster, N.Y., thence over New York Highway 22 to junction New York Highway 35, thence over New York Highway 35 to junction New York Highway 117, thence over New York Highway 117 to junction New York Highway 128, thence over New York Highway 128 to junction New York Highway 22, thence over New York Highway 22 to White Plains, N.Y., thence over New York Highway 100 to New York, and return over the same route.

NOTE.—Applicant states that the purpose of this instant application is to eliminate the Torrington gateway required in that portion of its certificate in docket number MC-52620 sub No. 5. Further, applicant states that the Danbury and New York route is required for the purposes of serving points in Rockland and Westchester Counties which authority is contained in applicant's certificate number MC 52620 sub No. 8, which authorizes the transportation of general commodities via irregular routes between New York, N.Y., on the one hand, and, on the other, points in Rockland and Westchester Counties, N.Y. No additional authority, either territorial or commodities, is sought by this application. The applicant is presently authorized to transport general commodities to all of the points set forth above in its certificate under docket number MC 52620 sub No. 5. In addition, this application is made solely for safety purposes by eliminating the heavily traveled, mountainous and dangerous routes between Norwalk, Conn., and Torrington, Conn., over either U.S. Highway 8 or U.S. Highway 7. Both of these routes are extremely dangerous during the winter season. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Hartford, Conn.

No. MC 55896 (sub-No. 40), filed March 13, 1973. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, Mich. 48180. Applicant's representative: Martin J. Leavitt, 1800 Buhl Building, Detroit, Mich. 48226. 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 plantsite and facilities of the Ford Motor Co., Romeo, Mich., as an off-route point in connection with carrier's authorized regular route operations to and from Detroit, Mich.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., Chicago, Ill., or Washington, D.C.

No. MC 59856 (sub-No. 49) (correction), filed February 8, 1973, published in FEDERAL REGISTER issue of March 22, 1973, and republished, as corrected this issue. Applicant: SALT CREEK FREIGHTWAYS, a corporation, 3333 West Yellowstone, Casper, Wyo. 82601. Applicant's representative: John R. Davidson, 805 Midland Bank Building, Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except commodities in bulk, houshold goods as defined by the Commission, commodities which because of size or weight require special equipment and articles of unusual value) between Billings, Mont., and Great Falls, Mont., over U.S. Highway 87 and return over the same route, serving all intermediate points.

NOTE.—Common control may be involved. The sole purpose of this republication is to delete the tacking information that was published in the previous FEDERAL REGISTER notice. If a hearing is deemed necessary, applicant requests it be held at Billings, Mont.

No. MC 59856 (sub-No. 51) (correction), filed February 26, 1973, published in the FEDERAL REGISTER, issue of March 22, 1973, and republished as corrected this issue. Applicant: SALT CREEK FREIGHTWAYS, 3333 West Yellowstone, Casper, Wyo. 82601. Applicant's representative: John R. Davidson, Room 805, Midland Bank Building, Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except commodities in bulk, household goods as defined by the Commission, commodities because of size or weight require special equipment and articles of unusual value), between Billings, Mont., and Missoula, Mont., over Interstate Highway 90 and U.S. Highway 10, and return over the same route, serving all intermediate points, and the Port of Butte located at or near Butte, Mont.

NOTE.—The purpose of this republication is to reflect Interstate Highway 90 in lieu of 40, which was inadvertently published. If a hearing is deemed necessary, applicant requests it be held at Billings, Mont.

No. MC 63417 (sub-No. 53), filed March 12, 1973. Applicant: BLUE RIDGE TRANSFER CO., INC., 1814 Hollins Road NE., P.O. Box 2888, Roanoke, Va. 24001. Applicant's representative: Nancy Pyeatt, 1030 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Sheet steel bathtubs, lavatories without legs, and sinks*, all enameled and not nested, from Bay Saint Louis, Miss., to points in Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee, and Virginia; and (2) *earthernware bowls, tanks, lavatories, urinals, and drinking fountains*, from Tupelo, Miss., to points in the destination States named in (1) above.

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 67818 (sub-No. 84), filed March 5, 1973. Applicant: MICHIGAN EXPRESS, INC., (MAURICE A. EDLEMAN, RECEIVER), 34200 Mound Road, Sterling Heights, Mich. 48077. Applicant's representative: Robert D. Schuler, 1 Woodward Avenue, suite 1700, Detroit, Mich. 48226. 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 commodities requiring special equipment), serving the plantsite and facilities of Ford Motor Co. at Romeo, Mich., as an off-route point in connection with carrier's otherwise authorized regular route operations to and from Detroit, Mich.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 69116 (sub-No. 154), filed March 12, 1973. Applicant: SPECTOR FREIGHT SYSTEM, INC., 205 West Wacker Drive, Chicago, Ill. 60606. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite and facilities of the Ford Motor Co., Romeo, Macomb County, Mich., as an off-route point in connection with carrier's otherwise authorized regular-route operations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., Chicago, Ill., or Washington, D.C.

No. MC 74321 (sub-No. 77), filed April 5, 1973. Applicant: B. F. WALKER, INC., 650 17th Street, Denver, Colo. 80202. Applicant's representative: Richard P. Kissinger (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products* (except commodities in bulk, in tank vehicles), from El Paso, Tex., to points in the United States (except Alaska and Hawaii).

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at El Paso, Tex.

No. MC 78400 (sub-No. 31), filed April 2, 1973. Applicant: BEAUFORT TRANSFER CO., a corporation, P.O. Box 102, Gerald, Mo. 63037. Applicant's representative: Thomas F. Kilroy, P.O. Box 624, Springfield, Va. 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Lamar, Mo., and Springfield, Mo.: From Lamar over U.S. Highway 160 to junction U.S. Highway 71, thence over U.S. Highway 71 to U.S. Highway 66, thence over U.S. Highway 66 to Springfield, Mo., and return over the same route, serving no intermediate points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Lamar, Mo.

No. MC 75830 (sub-No. 12), filed March 15, 1973. Applicant: INTER CITY TRANSPORT & MOTOR CO., a corporation, P.O. Box 88, Buckhannon, W. Va. 26201. Applicant's representative: John A. Pillar, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail variety stores, and *equipment, materials, and supplies* used in the conduct of such business (except commodities in bulk), between the facilities of G. C. Murphy Co. at McKeesport, Pa., on the one hand, and, on the other, points in Maryland, Virginia, and the District of Columbia, under a continuing contract or contracts with G. C. Murphy Co., of McKeesport, Pa.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 78400 (sub-No. 32), filed April 2, 1973. Applicant: BEAUFORT TRANSFER CO., a corporation, P.O. Box 102, Gerald, Mo. 63037. Applicant's representative: Thomas F. Kilroy, P.O. Box 624, Springfield, Va. 22150. 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 Hermann Industrial Site near Hermann, Mo., as an intermediate or off-route point, in connection with applicant's authorized regular route operations over Missouri Highway 100.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 83835 (sub-No. 101), filed February 26, 1973. Applicant: WALES TRANSPORTATION, INC., P.O. Box 6186, Dallas, Tex. 75222. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mining and quarry machinery, compressors and parts thereof*, between Franklin, Pa., on the one hand, and, on the other, points in Maryland, Virginia, Tennessee, North Carolina, South Carolina, Georgia, Alabama, Florida, and Mississippi.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Dallas, Tex.

No. MC 83835 (sub-Nos. 106), filed March 30, 1973. Applicant: WALES TRANSPORTATION, INC., P.O. Box 6186, Dallas, Tex. 75222. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Material handling equipment and parts thereof*, in straight or mixed shipments, from Fort Worth, Tex., to points in Arkansas, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 85465 (sub-No. 56), filed March 21, 1973. Applicant: WEST NEBRASKA EXPRESS, INC., P.O. Box 952, Scottsbluff, Nebr. 69361. Applicant's representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Description in Motor Carrier Certificates* 61 MCC 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Scottsbluff and Gering, Nebr., to points in Montana.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority at Scottsbluff, Nebr., but it has no present intention to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Cheyenne, Wyo. or Rapid City, S. Dak.

No. MC 86247 (sub-No. 4), filed March 5, 1973. Applicant: INTERNATIONAL CARTAGE LTD., 1333 College Avenue, Windsor, Ontario, Canada. Applicant's representative: Robert D. Schuler, One Woodward Avenue, suite 1700, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular 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), between the plantsite and facilities of Ford Motor Co., at Romeo, Mich., and the ports of entry on the international boundary line between the United States and Canada on the Detroit and St. Clair Rivers, restricted to the transportation of traffic in foreign commerce.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 86423 (sub-No. 3), filed April 2, 1973. Applicant: SMITH TRANSPORT (INTERNATIONAL) LTD., 227 Eugenie Street East, Windsor 12, Ontario, Canada. Applicant's representative: John W. Byrant, 900 Guardian Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular 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), between the international boundary line between the United States and Canada at Detroit, Mich., on the one hand, and, on the other, the plantsite and facilities of Ford Motor Co. at Romeo, Macomb County, Mich., restricted to the movement of traffic in foreign commerce.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. No duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., Chicago, Ill., or Washington, D.C.

No. MC 90548 (Sub-No. 2), filed March 29, 1973. Applicant: HUSBAND INTERNATIONAL TRANSPORT (ONTARIO) LTD., 7000 West Vernor Highway, Detroit, Mich. 48209. Applicant's representative: John W. Bryant, 900 Guardian Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular 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), between the international boundary line between the United States and Canada, at Detroit, Mich., on the one hand, and, on the other, the plantsite and facilities of Ford Motor Co. at Romeo, Macomb County, Mich., restricted to the movement of traffic in foreign commerce.

NOTE.—Applicant states that the requested authority can be tacked with its Canadian authority held by parent corporation. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., Chicago, Ill., or Washington, D.C.

No. MC 92068 (sub-No. 7), filed March 29, 1973. Applicant: MUTUAL TRANSPORTATION, INC., President and Fleet Streets, Baltimore, Md. 21202. Applicant's representative: Walter T. Evans, 615 Perpetual Building, 1111 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in or used by retail department and chain stores*, from the facilities of Mutual Transportation, Inc., located at or near Washington, D.C., to (1) the store and facilities of the WOOLCO Department Store division, F. W. Woolworth Co. at the Sugarland shopping complex near the intersection of the Fairfax County and Loudoun County boundary near Virginia Highway 7 in Loudoun County, Va.; and (2) the facilities of other retail stores located at or within a mile of the Sugarland shopping complex near the intersection of Fairfax County and Loudoun County, Va., restricted to the transportation of traffic having an immediately prior movement by rail or motor carrier.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 94350 (sub-No. 330), filed April 2, 1973. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Haywood Road, Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, in sections, mounted on wheeled undercarriages, from points in Mecklenburg County, N.C., to points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the international boundary line between the United States and Canada.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C.

No. MC 94350 (sub-No. 331), filed April 2, 1973. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Haywood Road, Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial shipments, and *buildings, or sections of buildings* mounted on wheeled undercarriages (from points of manufacture), from points in Herkimer County, N.Y., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Albany, N.Y.

No. MC 95876 (sub-No. 134), filed February 23, 1973. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Frank A. Dvorak, 1000 First National Bank Building, Minneapolis, Minn. 55402.

Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building, roofing, and insulation materials* (except iron and steel and commodities in bulk) and *materials* used in the manufacture, installation, and distribution thereof, between the plantsites and warehouse facilities of Certain-teed Products Corp. located in Scott County, Minn., on the one hand, and, on the other, points in Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Missouri, Montana, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin, and Wyoming, restricted to traffic originating at or destined to the plantsites and warehouse facilities of Certain-teed Products Corp. in Scott County, Minn.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 95876 (sub-No. 135), filed March 25, 1973. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Equipment, materials, and supplies* used in the quarrying, fabricating, manufacturing, and installation of granite marble, slate, and stone (except commodities which because of size or weight require the use of special equipment, and commodities in bulk), between points in Minnesota (except St. Cloud, Minn.), points in Wisconsin, and points in Grant and Codington Counties, S.Dak., on the one hand, and on the other, points in the United States (except Hawaii but including Alaska); and (2) *equipment, materials, and supplies* used in the quarrying, fabricating, manufacturing, and installation of granite, marble, slate, and stone (except commodities in bulk), between St. Cloud, Minn., on the one hand, and, on the other, points in the United States (except Hawaii but including Alaska).

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 100623 (sub-No. 41), filed March 26, 1973. Applicant: HOURLY MESSENGERS, INC., doing business as H. M. PACKAGE DELIVERY SERVICE, a corporation, 20th and Indiana Avenue, Philadelphia, Pa. 19132. Applicant's representative: Harold G. Hernly, Jr., 118 North St. Asaph Street, Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medical, and pharmaceutical products* (except radioactive pharmaceutical products), between the facilities of Parke-Davis & Co. at Towson, Md., on the one hand, and, on the other, points in Adams, Berks, Bucks, Carbon, Chester, Cumberland, Delaware, Dauphin, Franklin, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Monroe, Montgomery, Northampton, Perry, Philadelphia, Schuylkill, and York Counties, Pa., Atlantic, Ocean, Cape May, Burlington, Camden, Cumberland, Gloucester, Hunterdon, Mercer, Salem, and Warren Counties, N.J., and New Castle County, Del. Restriction: No service shall be rendered in the transportation of any package or article weighing more than 50 pounds or exceeding 108 inches in length and girth combined, and each package or article shall be considered as a separate and distinct shipment. No service shall be provided in the transportation of packages or articles weighing in the aggregate more than 300 pounds from one consignor at one location to one consignee at one location on any one day.

NOTE.—Applicant states it cannot and does not intend to tack the requested authority with its existing authority. Applicant also holds contract carrier authority under MC 102799, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 100666 (sub-No. 240), filed March 29, 1973. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 3535 Northwest 58th, 280 National Foundation Life Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials, equipment and supplies and builder's scaffolding*, from the plant and warehouse sites of Form-All Co. Division, the Ceco Corp. located at or near Knoxville, Ark., to points in the United States (except Alaska and Hawaii).

NOTE.—Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or Little Rock, Ark.

No. MC 100666 (sub-No. 242), filed April 4, 1973. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 Northwest 58th, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural insecticides*, from Opelousas, La., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, and Texas.

NOTE.—Applicant states that the requested authority can be tacked to the extent the authority sought embraces agricultural insecticides, in bulk, with its sub 155 at West Helena, Ark., to serve points in New Mexico and Tennessee. Applicant seeks no duplicating authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Dallas, Tex.

No. MC 100666 (sub-No. 243), filed April 6, 1973. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 3535 Northwest 58th, 280 National Foundation Life Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulating materials*, from Simsboro, La., to points in the United States (except Alaska and Hawaii).

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Shreveport, La., or New Orleans, La.

No. MC 103798 (sub-No. 6), filed April 2, 1973. Applicant: MARTEN TRANSPORT, LTD., a corporation, Route 2, Mondovi, Wis. 54755. Applicant's representative: Robert M. Kaske, 6 South Madison Street, CTS Building, Evansville, Wis. 53536. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry packing house products* (other than for human consumption), from Mondovi, Wis., to points in the United States (except Alaska and Hawaii), and (2) *materials and supplies* used or useful in the manufacture and distribution of products described in (1) above, from points in the United States (except Alaska and Hawaii), to Mondovi, Wis.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Madison, Wis., or Minneapolis, Minn.

No. MC 105045 (sub-No. 41), filed April 4, 1973. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, Ind. 47701. Applicant's representative: Paul F. Sullivan, 711 Washington Building, 15th and New York Avenue NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roadbuilding, earthmoving, construction, mining, and contractors' machinery and equipment, and parts thereof*, from the plantsite and warehouse facilities of the Koehring Co., Lorain and Southern division, at Chattanooga, Tenn., to points in the United States (except Alaska and Hawaii).

NOTE.—Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 106398 (sub-No. 652), filed March 16, 1973. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

Prefabricated buildings and sections of prefabricated buildings with *parts and accessories* used in the installation thereof, from Bristol, Conn., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 106644 (sub-No. 147), filed March 19, 1973. Applicant: SUPERIOR TRUCKING CO., INC., 2770 Peyton Road NW., P.O. Box 916, Atlanta, Ga. 30318. Applicant's representative: Fred Coffman, P.O. Box 80806, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Marble and granite*, from Elberton and Lithonia, Ga., to points in Maine, New Hampshire, Vermont, Connecticut, Delaware, District of Columbia, West Virginia, Wisconsin, and Michigan.

NOTE.—Applicant also holds contract carrier authority under MC-104724 sub-No. 13, therefore dual operations may be involved. Common control was approved by the Commission in No. MC-F-10247. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 106674 (sub-No. 108), filed March 12, 1973. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 122, Delphi, Ind. 46923. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials and gypsum and gypsum products and building materials and supplies* used in the installation of building materials and gypsum and gypsum products (except liquid commodities in bulk), from the facilities of United States Gypsum Co., located in Martin County, Ind., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, restricted to the transportation of shipments originating at the above-named facilities and destined to points in the above-named territory.

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 107515 (sub-No. 847), filed April 2, 1973. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from Newport News, Hampton, Portsmouth, Virginia Beach, Suffolk, and Nansemond City, Va., to points in Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Vermont, Massachusetts, Rhode Island, New Hampshire, and the District of Columbia, restricted to traffic originating at the named origins and destined to the above-named destinations.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Norfolk, Va.

No. MC 108449 (sub-No. 348), filed February 20, 1973. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minn. 55113. Applicant's representative: W. A. Myllenbeck (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, from Winona, Minn., to points in Iowa, Minnesota, North Dakota, South Dakota, and Wisconsin.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Minneapolis, Minn.

No. MC 108449 (sub-No. 349), filed March 5, 1973. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minn. 55113. Applicant's representative: Adolph J. Bieberstein, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except hides and commodities in bulk), from the plantsite and warehouse facilities utilized by Geo. A. Hormel & Co., at or near Beloit, Wis., to points in North Dakota, Minnesota, Iowa, Illinois, Indiana, Michigan, and Ohio, restricted to traffic originating at the named origin and destined to the named States, and (2) *meat, meat products, meat byproducts, foodstuffs, canning plant materials, and equipment and supplies* (except hides and commodities in bulk), from points in North Dakota, Minnesota, Iowa, Illinois, Indiana, Michigan, and Ohio to the plantsite and warehouse facilities utilized by Geo. A. Hormel & Co., at or near Beloit, Wis., restricted to traffic originating at the named origins and destined to the named destination.

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn., or Chicago, Ill.

No. MC 109595 (sub-No. 16), filed March 27, 1973. Applicant: REX TRANSPORTATION CO., a corporation, 34350 Goddard Road, Romulus, Mich. 48174. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from the plantsite of Medusa Cement Co. at Detroit, Mich., to points in Indiana and Ohio.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., Lansing, Mich., or Cleveland, Ohio.

No. MC 110525 (sub-No. 1050), filed March 19, 1973. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Vienna, Ga., to points in Alabama, Florida, and Mississippi.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Augusta, Ga., or Washington, D.C.

No. MC 110563 (sub-No. 104), filed March 12, 1973. Applicant: COLDWAY FOOD EXPRESS, INC., 113 North Ohio Avenue, P.O. Box 747, Sidney, Ohio 45365. Applicant's representative: Joseph M. Scanlan, 111 West Washington, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* (except hides and commodities in bulk), as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Cleveland, Ohio, to points in Michigan, Illinois, and Wisconsin.

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio, or Washington, D.C.

No. MC 111045 (sub-No. 100), filed April 2, 1973. Applicant: REDWING CARRIERS, INC., P.O. Box 426, Tampa, Fla. 33601. Applicant's representative: J. V. McCoy (same address as applicant).

Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed ingredients*, in bulk, in tank vehicles, from points in Florida to Tampa, Fla., restricted to traffic having an immediate subsequent movement by water.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Montgomery, Ala., or Washington, D.C.

No. MC 111045 (sub-No. 101), filed April 2, 1973. Applicant: REDWING CARRIERS, INC., P.O. Box 426, Tampa, Fla. 33601. Applicant's representative: J. V. McCoy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Formaldehyde*, in bulk, in tank vehicles, from Winnfield, La., to River Falls, Ala.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Mobile, Ala., or Washington, D.C.

No. MC 111812 (sub-No. 487), filed April 2, 1973. Applicant: MIDWEST COAST TRANSPORT, INC., 900 West Delaware, P.O. Box 1233, Sioux Falls, S. Dak 57101. Applicant's representative: Ralph H. Jinks (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gum and confectionery products*, from Canajoharie, N.Y., to San Jose, Calif., and Milwaukie, Oreg.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 112801 (sub-No. 143), filed March 21, 1973. Applicant: TRANSPORT SERVICE CO., a corporation, P.O. Box 50272, Chicago, Ill. 60650. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from the plant and warehouse facilities of Borden Chemical Co. located at or near Illiopolis, Ill., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Idaho, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New Jersey, New York, North Carolina, Rhode Island, South Carolina, Tennessee, Texas, and Virginia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 112822 (sub-No. 268), filed March 9, 1973. Applicant: BRAY LINES, INC., P.O. Box 1191 (1401 North Little), Cushing, Okla. 74023. Applicant's representative: K. Charles Elliott (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum products*, in containers, from Beaumont, Tex., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, and (2) *advertising matter, and such commodities* as are ordinarily used or distributed by wholesale or retail suppliers, marketers, or distributors of petroleum products, from Beaumont, Tex., to points in Alabama, Colorado, Florida, Georgia, Idaho, Illinois, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, North Carolina, North Dakota, Oregon, South Carolina, South Dakota, Tennessee, Utah, Washington, Wisconsin, Wyoming, Arkansas, Oklahoma, and New Mexico.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex., or Chicago, Ill.

No. MC 113362 (sub-No. 257), filed March 26, 1973. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, Iowa 50533. Applicant's respresentative: Milton D. Adams, 1105½ Eighth Avenue NE., Austin, Minn. 55912. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, frozen meats, and nonedible foods*, when moving in vehicles equipped with mechanical refrigeration from the facilities of Terminal Ice & Cold Storage located at or near Bettendorf, Iowa, to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. Restriction: Restricted to shipments originating at the facilities of Terminal Ice & Cold Storage Co., located at or near Bettendorf, Iowa.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Chicago, Ill.

No. MC 113678 (sub-No. 490), filed March 28, 1973. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City (Denver), Colo. 80022. Applicant's representative: Richard A. Peterson, P.O. Box 80806, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bakery products*, from Cozad, Nebr., to points in the United States (except Alaska and Hawaii); and (2) *such commodities as are used in the manufacture of bakery products, and materials, supplies, and equipment* used in the bakery product manufacturers, from points in the United States (except Alaska and Hawaii) to Cozad, Nebr.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 114004 (sub-No. 128), filed April 3, 1973. Applicant: CHANDLER TRAILER CONVOY, INC., 8823 New Benton Highway, Little Rock, Ark. 72209. Applicant's representative: Harold G. Hernly, Jr., 118 North St. Asaph Street, Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles in initial movements, and *portable buildings* mounted on wheeled undercarriages, from Fort Collins, Colo., and Meridian, Miss., to points in the United States (including Alaska but excluding Hawaii).

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or New Orleans, La.

No. MC 114019 (sub-No. 246), filed March 23, 1973. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, Ill. 60629. Applicant's representative: Arnold L. Burke, 127 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in containers, from points in Delaware, to points in Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin, and Wyoming.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 11429 (sub-No. 68), filed April 4, 1973. Applicant: EXLEY EXPRESS, INC., 2610 Southeast Eighth Avenue, Portland, Oreg. 97202. Applicant's representative: James T. Johnson, 1610 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canned goods*, from points in Walla Walla County, Wash., to points in Oregon; (2) *canned seafoods and pet food*, from points in Clatsop County, Oreg., and Whatcom, Wash., to points in California, Arizona, and Nevada; (3) *meats, meat products, and meat byproducts*, and *articles* distributed by meat packinghouses as described in "Descriptions in Motor Carrier Certificates," 61 M.C.C. 209, from Spokane, Wash., to points in Oregon and California, and (4) *cans and other containers*, from plants of Wisley Foods, Inc., in California, to the plants of Wisley Foods, Inc., in Oregon, when moving in the same vehicle with shipments of commodities otherwise authorized for the same shipper between the same points.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., Seattle, Wash., or Spokane, Wash.

No. MC 114457 (sub-No. 139), filed March 16, 1973. Applicant: DART TRANSIT CO., a corporation, 780 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Macomb, Ill., to points in Illinois, Indiana, Ohio, Kentucky, Tennessee, Louisiana, Arkansas, Oklahoma, Texas, Kansas, Missouri, Nebraska, Iowa, North Dakota, South Dakota, Minnesota, Wisconsin, and Michigan.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the applicant may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 114533 (sub-No. 274), filed March 22, 1973. Applicant: BANKERS DISPATCH CORP., 4970 South Archer Avenue, Chicago, Ill. 60632. Applicant's representative: Warren W. Wallin, 330 South Jefferson Street, Chicago, Ill. 60606. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Graphic arts material*, between Topeka, Kans., on the one hand, and, on the other, points in Platte, Jackson, Clay, Cass, Newton, Jasper, Greene, Cole, Boone, and Callaway Counties, Mo.; Osage, Tulsa, Creek, Washington, Oklahoma, McClain, and Canadian Counties, Okla., and Lancaster, Douglas, Sarpy, and Richardson Counties, Nebr.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract carrier authority under MC 128616, and dual operations were approved in 110 M.C.C. 294. If a hearing is deemed necessary, applicant requests it be held at Topeka, Kans., or Kansas City, Mo.

No. MC 115162 (sub-No. 268), filed April 5, 1973. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood, paneling and molding* from Norfolk, Va., to points in North Carolina, South Carolina, and Georgia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or Washington, D.C.

No. MC 115162 (sub-No. 269), filed April 5, 1973. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Moldings*, from Covington, Tenn., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Virginia, West Virginia, Vermont, and the District of Columbia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or Washington, D.C.

No. MC 115162 (sub-No. 270), filed April 6, 1973. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood, composition board, molding, and accessories* used in the installation thereof, from the plantsite of Evans Products Co., at or near Chesapeake, Va., to points in North Carolina and South Carolina.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or Washington, D.C.

No. MC 116073 (sub-No. 252) (correction), filed February 20, 1973, published in the FEDERAL REGISTER issue of April 26, 1973, and republished, as corrected, this issue. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: Robert G. Tessar, 1819 Fourth Avenue South, Moorhead, Minn. 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motorhomes*, from points in Los Angeles, Sutter, Yuba, Riverside, and Tulare Counties, Calif., Polk County, Fla., Thomas, and Schley Counties, Ga.; Adams County, Ind.; Lapeer and Sanilac Counties Mich.; Madison County, N.Y.; Marion County, Oreg.; Tarrant, Grayson, and Johnson Counties, Tex.; Box Elder County, Utah, and Yakima County, Wash., to points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to correctly indicate that applicant seeks authority from the above-named counties, to points in the United States (except Alaska and Hawaii), in lieu of a between counties movement which was inadvertantly previously published in error. Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Kansas City, Kans.

No. MC 116119 (sub-No. 24) (Correction), filed February 1, 1973, published in FEDERAL REGISTER issue of March 22, 1973, and republished as corrected this issue. Applicant: JOHN F. HARRIS, doing business as HOGAN'S TRANSFER & STORAGE CO., 1122 South Davis Avenue, Elkins, W. Va. Applicant's representative: Steven L. Weiman, suite 501, 1730 M Street NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and finished wood panels*, from Elkins, W. Va., to points in New Jersey and New York and *materials and supplies* used in the manufacture and distribution thereof from points in New Jersey and New York to Elkins, W. Va., under contract with Elkins Industries, Inc.

NOTE.—The purpose of this republication is to show applicant proposes to operate as a contract carrier rather than as a common carrier, which was shown in error in previous publication. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 116487 (sub-No. 9), filed March 5, 1973. Applicant: SULLIVAN'S MOTOR DELIVERY, INC., 711 South First Street, Milwaukee, Wis. 53204. Applicant's representative: Richard W. Darrow (same address as applicant) Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Business papers, records, audit, and accounting media of all kinds*, between Milwaukee, Wis., on the one hand, and, on the other, points in Boone, Cook, Du Page, Lake, McHenry, and Winnebago Counties, Ill., under contract with A. O. Smith Corp.

NOTE.—Applicant holds comomn carrier authority under MC 99284 (sub-No. 3), therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis.

No. MC 117095 (sub-No. 1), filed March 12, 1973. Applicant: MERVIN E. WEAVER, P.O. Box 84, Terre Hill, Pa. 17581. Applicant's representative: Charles E. Creager, suite 523, 816 Easley Street, Silver Spring, Md. 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural and crushed limestone, stone, sand, asphalt mix, and bituminous concrete*, between points in Lancaster County, Pa., and points in Kent, Calvert, Queen Annes, Charles, Talbot, Cecil, Dorchester, St. Mary's, Somerset, Wicomico, and Worcester Counties, Md.; Salem, Atlantic, Cape May, and Camden Counties, N.J.; Virginia, on and east of Interstate Highway 95; and Delaware.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority at points in Lancaster County, Pa., to points in Maryland. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 117574 (sub-No. 226), filed February 22, 1973. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, Pa. 17013. Applicant's representative: James W. Hagar, 100 Pine Street, P.O. Box 1166, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sewage, water, and refuse treatment systems*, the transportation of which because of size or weight

require the use of special equipment, and *tools, materials, and supplies* used in connection with the erection and construction of sewage, water, and refuse treatment systems (except commodities in bulk), between Baltimore, Md., on the one hand, and, on the other, points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana.

NOTE.—Common control may be involved. Applicant states that the requested authority can be tacked with its authority in No. MC–117574 (sub-No. 182) between points in the United States in and east of Ohio, Virginia, and West Virginia, on the one hand, and, on the other, points in the balance of the United States. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 117574 (sub-No. 227), filed March 8, 1973. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, Pa. 17013. Applicant's representative: James W. Hagar, P.O. Box 1166, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mechanical lifting equipment and attachments and parts* for mechanial lifting equipment, between Fulton County, Pa., on the one hand, and, on the other, points in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana.

NOTE.—Common control may be involved. Applicant states that the requested authority will be tacked to any authority it presently holds. Applicant further states that its sub-Nos. 56, 57, 69, 87, 124, and 161 authorize the transportation of similar commodities and will be tacked, inter alia, with the authority sought herein. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 117730 (sub-No. 14), filed March 26, 1973. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, Ill. 60142. Applicant's representative: Frank J. Belline, McDonald's Plaza, Oak Brook, Ill. 60521. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Resin-coated sand and industrial sand*, from Bridgman, Mich., to Dayton, Defiance, and Sidney, Ohio; Warsaw, Muncie, and La Porte, Ind.; Whitewater and Waukesha, Wis.; and Belvidere, Ill.

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 117730 (sub-No. 15), filed March 26, 1973. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47 Huntley, Ill. 60142. Applicant's representative: Frank J. Belline, McDonald's Plaza, Oak Brook, Ill. 60521. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Industrial sand and resin-coated sand*, (1) from Bridgman, Mich., to points in Indiana, Illinois, Iowa, Wisconsin, Kentucky, and Ohio, and (2) from Hanover, Wis., to points in Indiana, Illinois, Iowa, Michigan, Ohio, and Kentucky.

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 117765 (sub-No. 160), filed March 26, 1973. Applicant: HAHN TRUCK LINE, INC., 5315 Northwest Fifth, Oklahoma City, Okla. 73107. Applicant's representative: R. E. Hagan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpets, carpeting, and carpet pads*, from Anadarko, Davis, and Pawhuska, Okla., to points in Alabama, Kentucky, Michigan, Mississippi, New Mexico, and Ohio.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla.

No. MC 118263 (sub-No. 52), filed March 16, 1973. Applicant: COLDWAY CARRIERS, INC., P.O. Box 38, Clarksville, Ind. 47130. Applicant's representative: George M. Catlett, 703–706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except hides or commodities in bulk) from the plantsite and/or warehouse facilities utilized by Geo. A. Hormel & Co., located at or near Beloit, Wis., to points in Illinois, Ohio, Tennessee, Indiana, West Virginia, Missouri, Michigan, and Kentucky, restricted to traffic originating at the named origin and destined to the named States; and (2) *meat, meat products, meat byproducts, foodstuffs, canning plant materials, equipment, and supplies* (except hides or commodities in bulk), from points in Illinois, Ohio, Indiana, Missouri, and Michigan to the plantsite and/or warehouse facilities utilized by Geo. A. Hormel & Co. located at or near Beloit, Wis., restricted to traffic originating at the named origins and destined to the named destination. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Chicago, Ill.

No. MC 118288 (sub-No. 41), filed April 2, 1973. Applicant: STEPHEN F. FROST, 14750 Boyle Avenue, Fontana, Calif. 92335. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in "Descriptions in Motor Carrier Certificates," 61 M.C.C. 209 and 766, from Scottsbluff and Gering, Nebr., to points in Montana.

NOTE.—Applicant states that the requested authority could be tacked at Billings, Mont., however there is no present intention to do so. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 118831 (sub-No. 96), filed March 29, 1973. Applicant: CENTRAL TRANSPORT, INC., Box 5044, High Point, N.C. 27262. Applicant's representative: Richard E. Shaw (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry synthetic plastic granules or pellets*, in bulk, from points in Darlington County, S.C., to points in North Carolina.

NOTE.—Common control was approved by the Commission in MC–F–7867. Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 119099 (sub-No. 11), filed February 23, 1973. Applicant: BJORKLUND TRUCKING, INC., First Avenue NE. and Eighth Street, Buffalo, Minn. 55313. Applicant's representative: Frank A. Dvorak, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building, roofing, and insulation materials* (except iron and steel and commodities in bulk) *and materials* used in the manufacture, installation, and distribution thereof, between the plantsites and warehouse facilities of Certain-teed Products Corp. located in Scott County, Minn., on the one hand, and, on the other, points in Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Missouri, Montana, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin, and Wyoming, restricted to traffic originating at or destined to the plantsites and warehouse facilities of Certain-teed Products Corp. in Scott County, Minn.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 119403 (sub-No. 5), filed March 12, 1973. Applicant: CONTRACT STEEL CARRIERS, INC., 7500 West Chicago Avenue, Gary, Ind. 46406. Applicant's representative: Leonard R. Kofkin, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nonferrous metals, plastic articles, and iron and steel articles*, from the plantsite of Joseph T. Ryerson & Son, Inc., at Chicago, Ill., to points in Iowa.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119656 (sub-No. 15), filed March 29, 1973. Applicant: NORTH EXPRESS, INC., 219 East Main Street, Winamac, Ind. 46996. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, from Kokomo, Ind., to points in Illinois,

Michigan, Ohio, Kentucky, Wisconsin, and St. Louis, Mo., and (2) *materials, equipment, and supplies* used in the manufacture of iron and steel articles, from the destination points in (1) above to Kokomo, Ind.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.

No. MC 119767 (sub-No. 300), filed March 19, 1973. Applicant: BEAVER TRANSPORT CO., a corporation, P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: Fred H. Frigge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk) *and advertising matter, display racks, and premiums* when moving at the same time and in the same vehicle with foodstuffs, from the facilities of American Home Foods, division of American Home Products Corp. at La Porte, Ind., to points in Kentucky.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119789 (sub-No. 157), filed April 2, 1973. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared animal food* (except in bulk), from the plantsite and warehouse facilities of Lipton Pet Foods, Inc., at or near Golden Meadow, La., to points in Ohio and Michigan, and Pittsburgh and Belle Vernon, Pa.

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Dallas, Tex.

No. MC 119934 (sub-No. 192), filed March 22, 1973. Applicant: ECOFF TRUCKING, INC., 625 East Broadway, Fortville, Ind. 46040. Applicant's representative: Robert W. Loser II, 1009 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime and cement*, from points in Blount and Shelby Counties, Ala., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee. Restriction: The operations authorized herein are restricted against the transportation of *lime*, in bulk, from points in Shelby County, Ala., to points in Mississippi, Florida, Georgia (except Fulton County, Ga.), Louisiana, North Carolina, and South Carolina.

NOTE.—Applicant holds contract carrier authority under MC 128161 and sub-No. 1, therefore, dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Washington, D.C.

No. MC 121420 (sub-No. 5), filed March 26, 1973. Applicant: DART TRUCKING CO., INC., 61 Railroad Street, Canfield, Ohio 44406. Applicant's representative: Paul F. Beery, 88 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Limestone and limestone products, insecticides, herbicides, fungicides, fertilizer, and fertilizer ingredients and materials, and iron-bearing agglomerates*, from points in Lawrence County, Pa., to points in that part of Ohio on and east of U.S. Highway 23.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 123294 (sub-No. 30), filed March 29, 1973. Applicant: WARSAW TRUCKING CO., INC., 1102 West Winona Avenue, Warsaw, Ind. 46580. Applicant's representative: Martin J. Leavitt, 1800 Buhl Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry animal, animal and poultry feed, dry animal and poultry mineral mixtures; animal and poultry tonics, animal and poultry medicines, and animal and poultry insecticides*, (2) *livestock and poultry feeders and equipment*, and (3) *advertising matter* related to such products, from Alpha, Ill., to points in Pennsylvania, North Carolina, South Carolina, Michigan, Ohio, and Indiana.

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 123685 (sub-No. 16), filed March 26, 1973. Applicant: PEOPLES CARTAGE, INC., 8045 Navarre Road SW., Massillon, Ohio 44656. Applicant's representative: James W. Muldoon, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products* used in agriculture, water treatment, food processing, wholesale grocery, and institutional supply industries, when shipped in mixed shipments with salt and salt products, from Rittman, Fairport, and Cleveland, Ohio, to points in Kentucky, Pennsylvania, Virginia, West Virginia, New York, and Indiana; and (2) from Midland, Mich., to points in Kentucky, New York, Ohio, Pennsylvania, and West Virginia.

NOTE.—Applicant states that its requested authority could be joined with its existing authority in sub-No. 4 but it has no present intention of so doing. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 123744 (sub-No. 10), filed March 19, 1973. Applicant: BUTLER TRUCKING CO., a corporation, P.O. 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: *Pipe, tubing, conduit, fittings and attachments thereof, and cable*, to be unloaded by mechanical unloader furnished by the carrier, from Glen Dale (Marshall County), W. Va., to points in New York, New Jersey, Pennsylvania, Delaware, District of Columbia, Maryland, Virginia, Connecticut, Massachusetts, Rhode Island, New Hampshire, Vermont, and Maine.

NOTE.—Applicant states that tacking would not be possible with any of its presently certificated authority. However, a through service to points in the Canadian Provinces of Ontario and Quebec may be provided consistent with its efforts to secure appropriate Canadian authority in the future. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Washington, D.C.

No. MC 124211 (sub-No. 226), filed April 4, 1973. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, downtown station, Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cellular paper products*, from the plantsite and warehouse facilities of Celadyn, a division of Lancaster Research & Development Corp., located at or near Michigan City, Ind., to points in the United States (except Alaska, Hawaii, Illinois, Indiana, Michigan, Ohio, and Wisconsin), and (2) *confectionery*, from Chicago, Ill., to points in Oregon and Washington.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 124309 (sub-No. 9), filed March 15, 1973. Applicant: ALPHIE J. BOUSLEY, Box 61A, Route 3, Armstrong Creek, Wis. 54103. Applicant's representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Hardwood flooring systems, hardwood flooring, lumber and lumber products, synthetic plastic composition, facing or floor covering, and materials, accessories, and supplis* used in the installation thereof; and *materials and supplies* used in the manufacture and distribution of the commodities named above (except commodities in bulk) between White Lake, Wis., and Ishpeming, Mich., on the one hand, and, on the other, points in Washington, Oregon, California, Nevada, Idaho, Utah, Alaska, Arizona, Montana, Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Texas, Kansas, and Oklahoma, under contract with

Robbins Flooring Co., Division of Cook Industries, Inc.

NOTE.—If a hearing is deemed necessary applicant requests it be held at Milwaukee, Wis.

No. MC 124327 (sub-No. 11), filed April 5, 1973. Applicant: COASTAL CONTRACT CARRIER CORP., Box 261, Selmer, Tenn. 38375. Applicant's representative: R. Connor Wiggins, Jr., 100 North Main Building, Suite 909, Memphis, Tenn. 38103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metal siding and roofing, and component parts, accessories, and materials thereof for mobile homes, modular or assembled buildings and recreational vehicles, metal sheets and slabs and pallets and rain carrying equipment* from Peachtree City, Ga., Ocala, Fla., and Reidsville, N.C., to points in North Carolina, Virginia, Maryland, South Carolina, Florida, Georgia, Alabama, Mississippi, and Tennessee; (2) *baled scrap* from Peachtree City, Ga., Ocala, Fla., and Reidsville, N.C., to Decatur, Ala.; and (3) *materials, accessories, and related items* used in the fabrication, distribution, and sale of commodities in (1) above, from Decatur, Ala., to Peachtree City, Ga., Ocala, Fla., and Reidsville, N.C., under contract with Amax Aluminum Mill Products, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Nashville, Tenn.

No. MC 124692 (sub-No. 107), filed March 12, 1973. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 1447, Missoula, Mont. 59801. Applicant's representative: Gene P. Johnson, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Magnesium ingots*, from Rowley, Utah, to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah.

No. MC 124796 (sub-No. 105), filed March 9, 1973. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 East Salt Lake Avenue, P.O. Box 1257, City of Industry, Calif. 91749. Applicant's representative: J. Max Harding, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Automotive parts and accessories, automotive jacks, cranes (not self-propelled), hand, electric, and pneumatic tools, advertising matter, premiums, racks, display cases, and signs*, from the plantsites and warehouse facilities of Walker Manufacturing Co., Division of Tenneco, Inc., at or near Newark, Ohio, to points in the United States (except Alaska and Hawaii); and (2) *returned shipments and materials, equipment, and supplies*, used in the manufacture, sale, and distribution of the commodities specified in (1) above, from the destination areas in (1) above, to the plantsites and warehouse facilities of Walker Manufacturing Co., Division of Tenneco, Inc., at or near Newark, Ohio, restricted in (1) and (2) above against the transportation of commodities in bulk and those which by reason of size or weight, require the use of special equipment, under a continuing contract, or contracts, in (1) and (2) above with Tenneco, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 125433 (sub-No. 41), filed March 26, 1973. Applicant: F–B TRUCK LINE CO., a corporation, 1891 West 2100 South, Salt Lake City, Utah 84119. Applicant's representative: David J. Lister (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, which by reason of size or weight, require special handling or the use of special equipment and commodities which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight require special handling or the use of special equipment; (2) *self-propelled articles*, transported on trailers, and *related machinery, tools, parts, and supplies* moving in connection therewith; (3) *iron and steel articles* as described in appendix V to the Commission's report in *Descriptions in Motor Carrier Certificates*, Ex parte, MC–45, 61 M.C.C. 209 and 766; (4) *pipe* (other than iron and steel), together with *fittings;* and (5) *construction materials*, between points in California.

NOTE.—Common control may be involved. Applicant states that the requested authority could be tacked with the authority it seeks to acquire in MC–F–11376 at a common point in northern California and serve points in Oregon and Washington. If a hearing is deemed necessary, applicant requests it be held at Los Angeles or San Francisco, Calif.

No. MC 125433 (sub-No. 42), filed March 30, 1973. Applicant: F–B TRUCK LINE CO., a corporation, 1891 West 2100 South, Salt Lake City, Utah 84119. Applicant's representative: David J. Lister (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Mobile homes, motor homes, campers, and recreational vehicles;* and (2) *materials and supplies* utilized in the manufacture of mobile homes, motor homes, campers, and recreational vehicles, between points in Oregon, Washington, Idaho, California, Montana, Utah, Wyoming, Nevada, Arizona, and Colorado.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah; Boise, Idaho, or Reno, Nev.

No. MC 125433 (sub-No. 43), filed April 2, 1973. Applicant: F–B TRUCK LINE CO., a corporation, 1891 West 2100 South, Salt Lake City, Utah 84119. Applicant's representative: David J. Lister (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Industrial fluorescent lighting fixtures and parts thereof and medical electrical appliances and parts thereof*, from the plantsite of Keene Corp., Sunbeam Lighting Division, at Los Angeles, Calif., to points in Oregon, Washington, Montana, Idaho, Utah, Nevada, Arizona, New Mexico, Colorado, Wyoming, and California.

NOTES.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 126278 (sub-No. 12), filed March 26, 1973. Applicant: FRIGIDWAY CARTAGE CO., a corporation, 4500 West 44th Place, Chicago, Ill. 60632. Applicant's representative: William J. Boyd, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and nonedible foods*, when moving in vehicles equipped with mechanical refrigeration, from Bettendorf, Iowa, to points in Missouri, Illinois, Wisconsin, Indiana, Kentucky, Ohio, and Michigan.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 127278 (sub-No. 2) (correction), filed March 14, 1973, published in the FEDERAL REGISTER issue of April 26, 1973, and republished as corrected this issue. Applicant: PACIFIC VAN & STORAGE CO., INC., 1415 West Torrance Boulevard, Torrance, Calif. 90501. Applicant's representative: Ernest D. Salm, 8179 Havasu Circle, Buena Park, Calif. 90621. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, restricted to the transportation of traffic having a prior or subsequent movement in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, between points in El Dorado, Placer, Sacramento, San Joaquin, Solano, Sutter, and Yolo Counties, Calif.

NOTE.—Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to give the territorial description which was inadvertently omitted in previous publication. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 127527 (sub-No. 14), filed March 18, 1973. Applicant: CARL W.

REAGAN, doing business as SOUTHEAST TRUCKING CO., 8372 C.H. 18 East, R.F.D. No. 6, Ravenna, Ohio 44266. Applicant's representative: Robert N. Krier, 88 East Broad Street, suite 1680, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Conduit and other pipe* (except iron and steel and *attachments, parts and fittings* therefor from the plantsite of Flintkote Building Products Group, Pipe Products Division located at or near Ravenna, Ohio, in Rootstown Township, Portage County, Ohio, to points in Delaware, Michigan, Maryland, New Jersey, New York, Pennsylvania, West Virginia, the District of Columbia, Virginia, Kentucky, Illinois, Wisconsin, and Indiana; and damage or rejected shipments on return, under a continuing contract with Flintkote Building Products Group, Pipe Products Division.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Cleveland or Columbus, Ohio, or Washington, D.C.

No. MC 127834 (sub-No. 88), filed March 19, 1973. Applicant: CHEROKEE HAULING & RIGGING, INC., 540–42 Merritt Avenue, Nashville, Tenn. 37203. Applicant's representative: M. Bryan Stanley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Butler and Springfield, Pa., to points in Virginia, North Carolina, Georgia, Alabama, Mississippi, and Tennessee, restricted to traffic being moved for the account of Keystone Tublar Service Corp. and/or their customers.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Washington, D.C.

No. MC 128075 (sub-No. 26), filed March 9, 1973. Applicant: LEON JOHNSRUD, 757 Second Street West P.O. Box 447, Cresco, Iowa 52136. Applicant's representative: Val. M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except hides or commodities in bulk) from the plantsite and/or warehouse facilities utilized by Geo. A. Hormel & Co. at or near Beloit, Wis., to points in Minnesota, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Iowa, Missouri, Illinois, Michigan, Indiana, Ohio, Kentucky, New York, Pennsylvania, Louisiana, Arkansas, Alabama, Georgia, Mississippi, Tennessee, Vermont, New Hampshire, Maine, Massachusetts, Rhode Island, Connecticut, Maryland, New Jersey, Delaware, West Virginia, Virginia, North Carolina, South Carolina, and the District of Columbia, restricted to traffic originating at named origin and destined to named States, and (2) *meat, meat products, meat byproducts, foodstuffs, canning plant materials, equipment, and supplies* (except hides or commodities in bulk) from points in Minnesota, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Iowa, Missouri, Illinois, Michigan, Indiana, Ohio, New York, Pennsylvania, New Jersey, Louisiana, Arkansas, Mississippi, Alabama, and Georgia to the plantsite and/or warehouse facilities utilized by Geo. A. Hormel & Co., at or near Beloit, Wis., restricted to traffic originating at named origins and destined to named destination.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 128527 (sub-No. 38), filed March 30, 1973. Applicant: MAY TRUCKING CO., a corporation, P.O. Box 398, Payette, Idaho 83661. Applicant's representative: John K. Gatchel, P.O. Box 195, Payette, Idaho 83661. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment, and supplies used in the manufacture of mobile homes, motor homes, recreational vehicles, and campers*, between points in California on the one hand, and, on the other, points in Ada, Canyon, Washington, and Payette Counties, Idaho.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho.

No. MC 128669 (sub-No. 5), filed March 14, 1973. Applicant: A. E. MORRIS, Route 3, Virgilina, Va. 24598. Applicant's representative: A. E. Morris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Crushed stones*, from the Trego Quarry at or near Skippers, Va., to points in Halifax, Northampton, and Hertford Counties, N.C.; and (2) *premixed asphalt, liquid asphalt, and crushed stone*, from the Trego Quarry at or near Skippers, Va., to points in Rockingham, Caswell, Person, Granville, Vance, Warren, Halifax, Northampton, Hertford, and Gates Counties, N.C.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Roanoke, Va., or Washington, D.C.

No. MC 128951 (sub-No. 6), filed March 12, 1973. Applicant: ROBERT H. DITTRICH, doing business as BOB DITTRICH TRUCKING, 312 North Garden Street, New Ulm, Minn. 56073. Applicant's representative: Charles E. Nieman, 1160 Northwestern Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refrigerator door gaskets*, from New Ulm, Minn., to Galesburg, Ill.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 129159 (sub-No. 3), filed April 2, 1973. Applicant: A. T. PINTO, INC., 3320 South Third Street, Philadelphia, Pa. 19148. Applicant's representative: V. Baker Smith, 2107 The Fidelity Building, Philadelphia, Pa. 19109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe conduit, couplings, and accessories necessary for the installation thereof* (except commodities in bulk), from the plantsite and storage facilities of Certain-Teed Products Corp. at Ambler, Pa., to points in Connecticut, Delaware, New Hampshire, New Jersey, New York, Maryland, Maine, Massachusetts, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 129600 (sub-No. 12), filed March 27, 1973. Applicant: POLAR TRANSPORT, INC., 27 York Avenue, Randolph, Mass. 02368. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Oleomargarine, mayonnaise, salad dressing, sandwich spreads, relish spreads, mustard, coleslaw dressing, puddings, table sauces, vegetable oil, and shortening* (except in bulk), (a) from Atlanta, Ga., to points in Alabama, Connecticut, Delaware, Florida, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and the District of Columbia, and (b) from Baltimore, Md., to points in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming, and (2) *pallets, packaging materials, and materials, supplies, and ingredients* used in the manufacture of the above-described commodities, from the above-described destination points to the above-described origin points, restricted to a transportation service to be performed under a continuing contract with J. H. Filbert, Inc., of Baltimore, Md.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Baltimore, Md., or Washington, D.C.

No. MC 129631 (sub-No. 32), filed March 6, 1973. Applicant: PACK TRANSPORT, INC., 3975 South Second West Street, Salt Lake City, Utah 84107.

Applicant's representative: Max D. Eliason, P.O. Box 2602, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber, lumber mill products, and particleboard*, between points in Nevada on the one hand, and, on the other, points in Idaho, Montana, and Utah; (2) *wallboard*, between points in Arizona, Nevada, and Idaho; and (3) *grating materials*, from points in Mohave County, Ariz., to points in Utah and Montana.

NOTE.—Applicant also holds contract carrier authority under MC 101741, therefore dual operations may be involved. Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah.

No. MC 129631 (sub-No. 33), filed March 26, 1973. Applicant: PACK TRANSPORT, INC., 3975 South Second West Street, Salt Lake City, Utah 84107. Applicant's representative: Max D. Eliason, P.O. Box 2602, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wallboard, gypsum wallboard, gypsum products, and accessories therefor*, from points in Sevier County, Utah, to points in Oregon and Washington.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract carrier authority under MC 101741, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah.

No. MC 133095 (sub-No. 46), filed March 27, 1973. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P. O. Box 434, Euless, Tex. 76039. Applicant's representative: Hugh T. Matthews, 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials, plastic sheeting, upholstery material, and plastic coated cloth*, from points in Massachusetts to points in Arkansas, California, Louisiana, Nebraska, Kansas, Missouri, Oklahoma, Oregon, Tennessee, Texas, and Washington.

NOTE.—Applicant presently has pending contract carrier authority under MC 136032, therefore dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 133095 (sub-No. 47), filed April 4, 1973. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, Tex. 76039. Applicant's representative: Hugh T. Matthews, 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Body fillers*, from Shrewbury, Mass., to points in Nebraska, Kansas, Oklahoma, Texas, Louisiana, Arkansas, and Missouri.

NOTE.—Applicant has pending before the Commission a contract carrier application in No. MC 136032, therefore dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 133119 (sub-No. 17), filed April 2, 1973. Applicant: HEYL TRUCK LINES INC., 235 Mill Street, Akron, Iowa 51001. Applicant's representative: A. J. Swanson, P.O. Box 80806, 521 South 14th Street, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Potatoes, frozen*, and *potato products*, from Grand Forks, N. Dak., to points in Nebraska, Iowa, Kansas, Missouri, Oklahoma, Arkansas, Texas, New Mexico, Arizona, Colorado, Wyoming, and South Dakota.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., Sioux City, Iowa, or Fargo, N. Dak.

No. MC 133491 (sub-No. 2), filed March 13, 1973. Applicant: PETRO TRANSPORT, INC., 7200 Inkster Road, Taylor, Mich. 48180. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from the ports of entry on the international boundary line between the United States and Canada at or near Port Huron, Mich., to points in the Lower Peninsula of Michigan on, east, and south of a line beginning at the Michigan-Indiana State line and extending along U.S. Highway 131 to junction Interstate Highway 94, thence along Interstate Highway 94 to junction Michigan Highway 66, thence along Michigan Highway 66 to junction Michigan Highway 43, thence along Michigan Highway 43 to Lansing, thence along U.S. Highway 27 to Mount Pleasant, thence along Michigan Highway 20 to Midland, thence along U.S. Highway 10 to Bay City, thence along Michigan Highway 13 to junction Michigan Highway 247, thence along Michigan Highway 247 to the western shore of Saginaw Bay, under a continuing contract with Petro Products, Inc., of Taylor, Mich.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Lansing or Detroit, Mich.

No. MC 134096 (sub-No. 3), filed April 2, 1973. Applicant: TROPICANA TRANSPORTATION CORP., 880 Elston Street, Rahway, N.J. 06065. Applicant representative: Robert G. Powers, P.O. Box 338, Bradenton, Fla. 33505. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Citrus products* (except in bulk) *and canned and bottled nonalcoholic beverages and beverage concentrates*, from the plantsite and warehouse facilities of Tropicana Products, Inc., in St.Lucie and Mantee Counties, Fla., to points in Washington, Oregon, California, Nevada, Utah, Arizona, Colorado, New Mexico, and those in Texas on and west of U.S. Highway 83, under a continuing contract with Tropicana Products, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Tampa or Miami, Fla.

No. MC 134238 (sub-No. 5), filed March 29, 1973. Applicant: GENE'S INC., 10115 Brookville Salem Road, Clayton, Ohio 45315. Applicant's representative: Robert W. Loser, 1009 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ice cream novelties, ice cream, and water ices*, in refrigerated vehicles, from Elizabethtown, Ky., Toledo and Columbus, Ohio, Marietta, Ga., and St. Louis, Mo., to the Kroger Co. dairy and warehouse facilities at Indianapolis, Ind.; and (2) *fruit juice, natural and artificial, including blends thereof*, from Lansing, Mich., to the Kroger Co. plantsites and warehouse facilities located at Springdale, Ohio, and Indianapolis, Ind., under a continuing contract, or contracts, with the Kroger Co.

NOTE.—Applicant holds a motor common carrier certificate in No. MC-133977 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests ft be held at Cincinnati, Ohio, Indianapolis, Ind., or Washington, D.C.

No. MC 134356 (sub-No. 4), filed March 28, 1973. Applicant: GALE DELIVERY, INC., P.O. Box 573, Lynbrook, Long Island, N.Y. 11563. Applicant's representative: Maxwell A. Howell, 1100 Investment Building, 1511 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between New York, N.Y., and North Bergen, N.J.: From New York over Interstate Highway 95 (George Washington Bridge) to junction combined U.S. Highways 1 and 9, thence over combined U.S. Highways 1 and 9 to North Bergen, and return over the same routes, serving all intermediate points. Restriction: Carrier shall not, pursuant to the irregular route authority contained in certificate No. MC 134356 (sub-No. 2) transport traffic between any two points authorized herein to be served by it in regular route operation; the authority granted herein shall not be severable by sale or otherwise from the irregular route authority in certificate No. MC 134356 (sub-No. 2).

NOTE.—Applicant states that the instant application is filed pursuant to the Commission's holding in Transportation Activities, Brady Transfer & Storage Co., 47 M.C.C. 29 (1947), operations having evolved into a regular route operation. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 134387 (sub-No. 19) (amendment), filed February 12, 1973, published in the FEDERAL REGISTER issue of March 22, 1973, and republished as

amended and corrected, this issue. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Avenue, South Gate, Calif. 90280. Applicant's representative: David P. Christianson, 825 City National Bank Building, 606 South Olive Street, Los Angeles, Calif. 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty cans and can ends*, from points in Washington, to points in Arizona and California.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority authorizing movements from points in California to specified points in Arizona and Nevada. The purposes of this republication are to indicate that applicant seeks authority to the additional destination State of Arizona, and also to indicate the tacking possibilities. If a hearing is deemed necessary, applicant requests it be held at Los Angeles or San Francisco, Calif.

No. MC 134478 (sub-No. 3), filed February 23, 1973. Applicant: CONNOLLY CARTAGE CORP., 1088 North Snelling Avenue, P.O. Box 3660, St. Paul, Minn. 55101. Applicant's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building, roofing, and insulation materials* (except iron and steel and commodities in bulk), and *materials* used in the manufacture, installation, and distribution thereof, between the plantsites and warehouse facilities of Certain-teed Products Corp., located in Scott County, Minn., on the one hand, and, on the other, points in Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Missouri, Montana, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin, and Wyoming, restricted to traffic originating at or destined to the plantsites and warehouse facilities of Certain-teed Products Corp., in Scott County, Minn.

NOTE.—Applicant also holds temporary contract carrier authority under MC 135424 (sub-No. 1), therefore dual operations and common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 134538 (sub-No. 1), filed February 26, 1973. Applicant: JOHN L. CLARK, R.F.D. No. 3, Montpelier, Ohio 43543. Applicant's representative: William R. White, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, contained in semi-type trailers, between Montpelier, Ohio, on the one hand, and, on the other, points in Wood, Lucas, Erie, Ottawa, Henry, Sandusky, Paulding, and Van Wert Counties, Ohio; points in Lagrange, Steuben, Noble, De Kalb, Allen, and Whitley Counties, Ind.; and points in Berrien, Cass, St. Joseph, Branch Hillsdale, Lenawee, Monroe, Washtenaw, Jackson, Calhoun, Kalamazoo, Van Buren, Allegan, Barry, Eaton, Ingham, Livingston, Genesee, Shiawasee, Clinton, Ionia, Kent, Ottawa, and Muskegon Counties, Mich., restriction: Restricted to the transportation of piggyback trailers loaded or empty, having an immediately prior to subsequent movement by rail.

NOTE.—Applicant states that the requested authority can be tacked with its lead docket under MC 134538 authorizing the transportation of general commodities (with the usual exceptions) and motor vehicles, between Montpelier, Ohio, on the one hand, and, on the other points in Williams, Fulton, and Definance Counties, Ohio restricted to the transportation of shipments having an immediately prior or subsequent movement by rail. If a hearing is deemed necessary, applicant requests it be held at either Bryan, Toledo, or Columbus, Ohio.

No. MC 134599 (sub-No. 76), filed March 14, 1973. Applicant: INTERSTATE CONTRACT CARRIER CORP., P.O. Box 748, Salt Lake City, Utah 84110. Applicant's representative: Richard A. Peterson, P.O. Box 80806, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Crated office furniture and parts thereof, and related advertising, sales, and promotional materials*, between Grand Rapids, Mich., on the one hand, and, on the other, points in California, under contract with Steelcase, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, or Lincoln, Nebr.

No. MC 134734 (sub-No. 10), filed March 29, 1973. Applicant: NATIONAL TRANSPORTATION, INC., Box 31, Norfolk, Nebr. 68701. Applicant's representative: Lanny N. Fauss, P.O. Box 37096, Omaha, Nebr. 68137. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cranberry products* (except in bulk), from Kenosha, Wis., to points in Texas, under contract with Ocean Spray Cranberries, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis., or Chicago, Ill.

No. MC 134783 (sub-No. 3), filed March 26, 1973. Applicant: DIRECT SERVICE, INC., P.O. Box 786, Dimmitt Highway, Plainview, Tex. 79072. Applicant's representative: Charles J. Kimball, 2310 Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766, from the plantsite and storage facilities of Prairieland Packing Corp., located at or near Morton, Tex., and the storage facilities utilized by Prairieland Packing Corp., at or near Lubbock, Tex., to points in the United States (except Alaska, Hawaii, California, Arizona, New Mexico, Colorado, Utah, Oregon, and Washington).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Lubbock or Amarillo, Tex.

No. MC 134793 (sub-No. 3), filed March 19, 1973. Applicant: EDWIN LINDEN, doing business as EAST-WEST REFRIGERATED FREIGHT LINES, 30 South Stolp Avenue, Aurora, Ill. 60504. Applicant's representative: Donald S. Mullins, 4704 West Irving Park Road, Chicago, Ill. 60641. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Adhesives, adhesive cement, caulking compounds, cleaning and polishing compounds and solutions, emulsions used as a mixing material, latex solution, mastic material, sealing primer, solvents;* and (2) *equipment, supplies, and tools* necessary for the application of the commodities in (1) above, restricted against the transportation in bulk, from the plantsite and warehouse facilities of Chicago Mastic Co., subsidiary of United States Gypsum Co. at Chicago and Rosemont, Ill., to points in the United States (except Alaska and Hawaii), under contract with Chicago Mastic Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 135007 (sub-No. 28), filed March 29, 1973. Applicant: AMERICAN TRANSPORT, INC., 7850 F Street, Omaha, Nebr. 68127. Applicant's representative: Frederick J. Coffman, 521 South 14th Street (P.O. Box 80806), Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New finished furniture*, from a point at or near Cameron, Tex., to points in Arkansas, Colorado, Iowa, Kansas, Louisiana, Missouri, Nebraska, New Mexico, and Oklahoma, under a continuing contract with William Volker & Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Houston, Tex., or San Francisco, Calif.

No. MC 135236 (sub-No. 5), filed March 19, 1973. Applicant: LOGAN TRUCKING, INC., 801 Erie Avenue, Logansport, Ind. 46947. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Trenton, N.J., to points in Minnesota, Iowa, Nebraska, Kansas, Missouri, Oklahoma, Texas, Tennessee, Louisiana, Virginia, and West Virginia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Indianapolis, Ind.

No. MC 135875 (sub-No. 3), filed April 5, 1973. Applicant: CLARENCE R. BERGER, 651 80th Avenue, NE., Minneapolis, Minn. 55432. Applicant's representative: Earl Hacking, 503 11th Avenue South, Minneapolis, Minn. 55415. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from Milwaukee,

Wis., to Minneapolis and Stillwater, Minn.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 136032 (sub-No. 1), filed March 26, 1973. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, Tex. 76039. Applicant's representative: Hugh T. Matthews, 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Auto parts*, from Toledo, Ohio, and Pinola, Ind., to points in Minnesota, Iowa, Missouri, Arkansas, Louisiana, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Montana, Wyoming, Colorado, New Mexico, Idaho, Utah, Arizona, Washington, Oregon, Nevada, and California, under a continuing contract with Questor Corp.

NOTE.—Applicant holds common carrier authority under MC 133095 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 136211 (sub-No. 11), filed March 23, 1973. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., 210 St. Marys Drive, suite G, P.O. Box 5067, Oxnard, Calif. 93030. Applicant's representative: Robert J. Mildfelt, 600 Leininger Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New home furnishings, appliances, and recreational equipment*, between Cincinnati (Sharonville), Ohio, on the one hand, and, on the other, points in Indiana and Kentucky bounded by a line beginning at the junction of the Indiana-Ohio boundary and Interstate Highway 70, thence along Interstate Highway 70 to its junction with Interstate Highway 65, thence along Interstate Highway 65 to its junction with Interstate Highway 64 at or near the Indiana-Kentucky boundary, thence along Interstate Highway 64 to its junction with Kentucky State Highway 11, thence along Kentucky State Highway 11 to its junction with the Kentucky-Ohio boundary, including points and their commercial zones located on the highways and boundaries indicated, restricted against the transportation of shipments to retail or commercial enterprises, under a continuing contract or contracts with Wickes Furniture, division of the Wickes Corp.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus or Cincinnati, Ohio, or Louisville, Ky.

No. MC 136343 (sub-No. 10), filed March 30, 1973. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 207, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paradichlorobenzene, insecticides (other than agricultural) and naphthalene* (except commodities in bulk), between the facilities of Standard Chlorine Chemical Co., Inc., at Kearny, N.J., and Boston and Woburn, Mass.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot or will not be tacked with its existing authority. Applicant holds contract carrier authority in No. MC-96098 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 136408 (sub-No. 7), filed December 21, 1972. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative: William J. Hanlon, 60 Park Place, Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning, washing, and polishing soaps and compounds, paint, vanishes, and rust preventatives, oils and greases* (except in bulk, in tank vehicles), between Avenel, N.J., Cleveland and Cincinnati, Ohio, Summit, Ill., Detroit, Mich., Des Moines, Iowa, Kansas City Mo., Omaha, Nebr., Sioux Falls, S. Dak., and Roseville, Minn., under a continuing contract with Economics Laboratory, Inc., and further limited to service between the plant and warehouses of Economics Laboratory.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Newark, N.J.

No. MC 136539 (sub-No. 1), filed March 13, 1973. Applicant: PETERSON TRUCKING CO., a corporation, 6904 Tujunga Avenue, North Hollywood, Calif. 91605. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Baby furniture and baby products and materials and supplies* used in the manufacture of baby furniture and baby products (except in bulk), between the plantsite and warehouse facility of Peterson Baby Products Co., located at or near Columbus, Ohio, on the one hand, and, on the other, points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana (except Ohio), under contract with Peterson Baby Products Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 136754 (sub-No. 1) (correction), filed January 8, 1973, published in the FEDERAL REGISTER issue of March 15, 1973, and republished, as corrected, this issue. Applicant: CAL-EAST CARRIERS, INC., 2332 South Peck Road, Whittier, Calif. 90601. Applicant's representative: Ernest D. Salm, 8179 Havasu Circle, Buena Park, Calif. 90621. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Components and materials*, used in the manufacture and production of motor vehicle parts, (1) from ports of entry on the international boundary line between the United States and Canada located at points in New York and Michigan, and (2) Macomb, Monroe, and Wayne Counties, Mich., to the plantsites and places of business of Watts Manufacturing Corp. at points in Los Angeles County, Calif., under a continuing contract, or contracts, with Watts Manufacturing Corp. at Lynwood, Calif.

NOTE.—The purpose of this republication is to indicate that applicant seeks to include points on the international boundary line between the United States and Canada in Michigan as an origin territory. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 136777 (sub-No. 4) (amendment), filed November 27, 1972, published in the FEDERAL REGISTER issue of December 28, 1972, and republished, as amended, this issue. Applicant: POPELKA TRUCKING CO., a corporation, doing business as THE WAGGONERS, P.O. Box 990, Livingston, Mont. 59047. Applicant's representative: Jacob P. Billig, 1108 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Horse tacking commodities and commodities used in the manufacturing of horse tacking commodities and thermal clothing*, between Ravalli, Mont., on the one hand, and, on the other, points in the United States (including Alaska but excepting Hawaii), under contract with I-deal Ideas, Inc.

NOTE.—Applicant now holds common carrier authority under its No. MC 26396 and subs, therefore dual operations may be involved. The purpose of this republication is to indicate the new origin of the shipper in the request for authority as Ravalli, Mont. (approximately 15 miles southward along U.S. Highway 93 from Pablo, Mont., as previously published). Applicant further requests that the due dates set by the Commission's order of February 21, 1973, be indefinitely postponed.

No. MC 136801 (sub-No. 1), filed March 30, 1973. Applicant: A & T TRUCKING, INC., P.O. Box 307, Nez Perce, Idaho 83543. Applicant's representative: Kenneth G. Bergquist, P.O. Box 1775, Boise, Idaho 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except household goods as defined by the Commission, explosives and commodities in bulk, in tank vehicles), between points in Clearwater, Idaho, Lewis and Nez Perce Counties, Idaho.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Lewiston, Idaho, or Spokane, Wash.

No. MC 138128 (sub-No. 3), filed March 19, 1973. Applicant: LEMMONS & CO., INC., P.O. Box 303, Boonville, Ind. 47601. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

routes, transporting: *Coal*, from Boonville, Ind., to the plantsite of Whirlpool Corp. Plant No. 2, located at U.S. Highway 41 North near St. George Road, Evansville, Ind.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Washington, D.C.

No. MC 138288 (sub-No. 2), filed March 19, 1973. Applicant: ASSOCIATED DELIVERY SERVICE, INC., 100 Crows Mill Road, Keasbey, N.J. 08832. Applicant's representative: Richard Newman, 1180 Raymond Boulevard, Suite 2045, Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Home and garden appliances and supplies, and equipment connected therewith*, from Keasbey, N.J., on the one hand, and, on the other, points in Orange, Rockland, and Richmond Counties, N.Y., and Bucks and Montgomery Counties, Pa., under contract with Bamberger's, a division of R. H. Macy & Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Newark, N.J.

No. MC 138343 (sub-No. 1), filed April 2, 1973. Applicant: CONEJO ENTERPRISES, INC., 2115 Glen, South Bend, Ind. 46613. Applicant's representative: Robert S. Friedline, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, from Ferrysburg, Holland, Benton Harbor, and St. Joseph, Mich., to points in Indiana.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 138415 (sub-No. 3), filed March 29, 1973. Applicant: TRAILER EXPRESS, INC., P.O. Box 321, Topeka, Ind. 46571. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fold campers, travel trailers, and fifth wheel travel trailers* (truck trailers), from the plantsite of Wheelcamper Corp., Centreville, Mich., to points in the United States (except Alaska and Hawaii), under a continuing contract with Wheelcamper Corp.

NOTE.—Applicant has pending before the Commission a request for common carrier authority under MC 129421 (sub-No. 1), therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 138440 (sub-No. 1), filed February 23, 1973. Applicant: PINKY'S TRANSPORTATION, INC., 5936 Highway 115, Brawley, Calif. 92227. Applicant's representative: Carl H. Fritze, 1545 Wilshire Boulevard, Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed*, dry, in bulk, having a prior movement by rail, between points in Imperial County, Calif.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Brawley, Calif., or Yuma, Ariz.

No. MC 138491 (sub-No. 1), filed March 13, 1973. Applicant: SOUTHEASTERN TANK LINES, INC., 2601 Eunice Avenue, Orlando, Fla. 32804. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Citrus juices and concentrates*, not frozen, in bulk, in tank vehicles, from the plantsite of Southern Gold Citrus Products, Inc., at Orlando, Fla., to points in Michigan, Ohio, New York, New Jersey, Minnesota, Connecticut, Georgia, North Carolina, South Carolina, Tennessee, Kentucky, Virginia, Maryland, Delaware, Pennsylvania, Indiana, and the District of Columbia, under contract with Southern Gold Citrus Products, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 138506 (sub-No. 2), filed April 2, 1973. Applicant: OHIO BAKERY EXPRESS CO., a corporation, 2131 South County Road, Clyde, Ohio 43410. Applicant's representative: Paul F. Berry, 88 East Broad Street, Suite 1660, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irrgular routes, transporting: (1) *Bakery goods* (except those requiring mechanical refrigeration), from McComb, Ohio, to points in Pennsylvania, New York, Maine, Vermont, New Hampshire, New Jersey, Maryland, Massachusetts, Rhode Island, Delaware, Connecticut, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Kentucky, Tennessee, Ohio, and the District of Columbia, and (2) *equipment, materials, and supplies* used in the manufacture of baked goods (except commodities in bulk), from points in the destination States named in (1) above, to McComb, Ohio, under contract with Consolidated Biscuit Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 138510 (sub-No. 1), filed March 19, 1973. Applicant: RICCI TRANSPORTATION CO., INC., Odessa and Aloe Streets, Pomona, N.J. 08240. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, Pa. 18517. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from Milwaukee, Wis., Brooklyn, N.Y., Baltimore, Md., and Fogelsville, Pa., to Atlantic City and Wildwood, N.J., under contract with South Jersey Distributor's Co., Inc., Atlantic City, N.J.

NOTE.—Applicant holds motor common carrier authority in No. MC-127955, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 138534, filed February 27, 1973. Applicant: SAFEWAY VAN LINES OF WAYNESVILLE, INC., 1010 City Route 66 West, Waynesville, Mo. 65583. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in that part of Missouri south of U.S. Highway 36, restricted to traffic having a prior or subsequent movement in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, or decontainerization of such traffic.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 138539, filed March 5, 1973. Applicant: BILL CALVERT, doing business as CALVERT TRUCKING CO., P.O. Box 28, Rogersville, Ala. 35652. Applicant's representative: John P. Carlton, 601–609 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber* from Rogersville, Ala., and its commercial zone to points in Georgia, Tennessee, Mississippi, North Carolina, and South Carolina under contract with T. J. Moss Lumber Co., Inc.; and (2) (a) *lumber, wooden handles, wooden ladder rungs, wooden dowels, and wood products* from Huntsville, Ala., to points in Georgia, Tennessee, Mississippi, Kentucky, Illinois, and Michigan, and Kansas City, Mo.; and (b) *materials, equipment, and supplies* used in the manufacture of the commodities described in (a), above, from Mobile, Ala., and points in Georgia, Tennessee, Mississippi, Kentucky, Illinois, Michigan, and Kansas City, Mo., to Huntsville, Ala.; under contract with Textile Hardware Manufacturing Co., Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala.

No. MC 138562, filed March 22, 1973. Applicant: CATES TRUCKING, INC., Box 518, Swayzee, Ind. 46986. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cabinet tops*, from the plantsite and warehouse facilities of Hartson-Kennedy Cabinet Co., Inc., at Marion and Elkhart, Ind., to points in the United States (except those in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, Hawaii, and Alaska), and (2) *glue*, from Bloomfield, N.J., to the plantsite and warehouse facilities of Hartson-Kennedy Cabinet Co., Inc., at Marion and Elkhart, Ind., under contract with Hartson-Kennedy Cabinet Co., Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 138577, filed March 26, 1973. Applicant: KASARDO GARAGE, INC., 7515 Ardmore Street, Swissvale, Pa. 15218. Applicant's representative: John A. Pillar, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, disabled, abandoned, and repossessed motor vehicles, trailers, and buses* (except trailers designed to be drawn by passenger automobiles) *and replacement vehicles for wrecked or disabled motor vehicles, trailers, and buses*, between points in Allegheny County, Pa., on the one hand, and, on the other points in Maryland, New Jersey, New York, Ohio, West Virginia, Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 138579, filed March 22, 1973. Applicant: OWEN R. HOBBS, doing business as HOBBS BROTHERS, 1022 Blanchard Avenue, Findlay, Ohio 45840. Applicant's representative: James M. Burtch, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime, limestone, and limestone products*, from the plantsite of the National Lime & Stone Co., located at or near Cary (Wyandot County), Ohio, and Holmes Township (Crawford County), Ohio, to points in Michigan, Indiana, Illinois, Kentucky, New Jersey, New York, Pennsylvania, Tennessee, West Virginia, Wisconsin, and Missouri.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 138603, filed March 26, 1973. Applicant: LAWRENCE TRANSFER & STORAGE CO., INC., 609 Massachusetts Street, Lawrence, Kans. 66044. Applicant's representative: Wm. M. Crawford, P.O. Box 99156, Seattle, Wash. 98199. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, restricted to the transportation of shipments having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with the packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such shipments between points in Atchison, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Miami, Osage, Shawnee, and Wyandotte Counties, Kans., and Jackson, Clay, and Platte Counties, Mo.

NOTE.—Applicant holds a motor contract carrier permit in No. MC-111014 and subs thereunder, therefore dual operations may be involved. Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Lawrence or Kansas City, Kans.

No. MC 138616, filed April 4, 1973. Applicant: HERMANEHILLDO CAMPOS III, doing business as CAMPOS DELIVERY SERVICE, 4 Voe Place, Monterey, Calif. 93940. Applicant's representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, Calif. 94108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, livestock and commodities requiring refrigeration), between the San Jose Municipal Airport at San Jose, Calif., on the one hand, and, on the other, Watsonville, Calif., and points in Monterey County, Calif., restricted to shipments having an immediate prior or subsequent movement by air.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Monterey or San Francisco, Calif.

APPLICATIONS OF WATER CARRIERS

No. W-1260 (sub-No. 2) (Coastwise Packet Co., Inc., common carrier application). Applicant: COASTWISE PACKET CO., INC., Vineyard, Mass. 02568. Application filed April 11, 1973, seeking authority to operate as a *common carrier*, in interstate or foreign commerce, by sailing vessel, from June through September, in the transportation of *passengers* in round-trip cruise service out of Vineyard Haven, Mass., to ports and points along the Atlantic Coast and tributary waters between Nantucket, Mass., and Fishers Island, Conn., inclusive, and return.

W-1267 (sub-No. 1), (August H. Fraza and Dorothy H. Fraza common carrier application), filed April 18, 1973. Applicant: AUGUST H. FRAZA AND DOROTHY H. FRAZA, 506 First Avenue, Dixon, Ill. 61021. Applicant's representative: John W. Ball, Jr., 920 15th Avenue, East Moline, Ill. 61244. Application for a certificate to institute a new operation as a *common carrier* by water, by self-propelled vessels, in interstate or foreign commerce, in the transportation of *passengers*, in excursion and charter service, out of and returning to ports and points along the Mississippi River the entire length of the States of Illinois and Iowa, between May and October each year.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-8584 Filed 5-2-73;8:45 am]

ATOMIC ENERGY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS 157TH ACRS MEETING

Notice of Meeting

APRIL 30, 1973.

The FEDERAL REGISTER notice, published at 38 FR 10494 (Apr. 27, 1973), relating to the 157th ACRS meeting, is revised to correct the date for that portion of the meeting open to the public from Thursday, May 12, 1973, to Thursday, May 10, 1973.

JOHN V. VINCIGUERRA, *Advisory Committee Management Officer.*

[FR Doc.73-8774 Filed 5-2-73;8:45 am]

SUBCOMMITTEE ON THE EDWIN I. HATCH NUCLEAR PLANT

Notice of Meeting

APRIL 30, 1973.

In accordance with the purposes of section 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards Subcommittee on the Edwin I. Hatch Nuclear Plant will hold a meeting on May 24, 1973 in room 1046 at 1717 H Street, Washington, D.C. The purpose of this meeting will be to review the application of Georgia Power Co. for a license to operate unit 1, located near Baxley, Ga.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

Thursday, May 24, 1973, 9:30 a.m.–3:30 p.m.—Review of the application for an operating license (presentations by the AEC regulatory staff and Georgia Power Co. and its consultants, and discussions with these groups).

In connection with the above agenda item, the Subcommittee will hold an executive session at 8:30 a.m. which will involve a discussion of its preliminary views, and an executive session at the end of the day, consisting of an exchange of opinions of the Subcommittee members and internal deliberations and formulation of recommendations to the ACRS.

In addition, prior to the executive session at the end of the day, the Subcommittee may hold a closed session with the regulatory staff and applicant to discuss privileged information relating to plant security and initial core design, if necessary.

I have determined, in accordance with subsection 10(d) of Public Law 92-463, that the executive sessions at the beginning and end of the meeting will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b); and that a closed session may be held, if necessary, to discuss certain documents which are privileged, and fall within exemption (4) of 5 U.S.C. 552(b). It is essential to close such portions of the meeting to protect such privileged information and to protect the free interchange of internal views and to avoid undue interference with Agency or Committee operation.

Practical considerations may dictate alterations in the above agenda or schedule.

The chairman of the Subcommittee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda item may do so by mailing 25 copies thereof, postmarked no later than May 18, 1973, to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Such comments shall be based upon the application for an operating license and related documents on file and available for public inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545, and at the Appling County Public Library, Parker Street, Baxley, Georgia 31513.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the chairman of the Subcommittee, between the hours of 1:30 p.m. and 3:00 p.m. on the day of the meeting.

(c) Requests for the opportunity to make oral statements shall be ruled on by the chairman of the Subcommittee, who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been canceled or rescheduled and in regard to the chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on May 22, 1973, to the office of the Executive Secretary of the Committee (telephone: 301-973-5651) between 8:30 a.m. and 5:15 p.m. eastern daylight time.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come-first-served basis.

(g) Copies of minutes of public sessions will be made available for inspection on or after July 9, 1973, at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies may be obtained upon payment of appropriate charges.

JOHN V. VINCIGUERRA,
Advisory Committee Management Officer.

[FR Doc.73-8775 Filed 5-2-73;8:45 am]

UNDERGROUND NUCLEAR TESTING PROGRAM, ET AL.

Notice of Availability of Environmental Statements

Notice is hereby given that four final environmental statements: Underground nuclear testing program, Nevada Test Site, Nevada; transuranium solid waste development facility, Los Alamos Scientific Laboratory, New Mexico; future high level waste facilities, Savannah River Plant, South Carolina; and calcined solids storage additions, National Reactor Testing Station, Idaho; issued pursuant to the Atomic Energy Commission's implementation of section 102(2)(c) of the National Environmental Policy Act of 1969 are being placed in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545, and in the Commission's Albuquerque Operations Office, P.O. Box 5400, Albuquerque, N. Mex. 87115; Chicago Operations Office, 9800 South Cass Avenue, Argonne, Ill. 60439; Grand Junction Office, P.O. Box 2567, Grand Junction, Colo. 81501; Idaho Operations Office, P.O. Box 2108, Idaho Falls, Idaho 83401; Oak Ridge Operations Office, P.O. Box E, Oak Ridge, Tenn. 37830; San Francisco Operations Office, 2111 Bancroft Way, Berkeley, Calif. 94704; and Health and Safety Laboratory, 376 Hudson Street, New York, N.Y. 10014. These statements were prepared in support of the Commission's legislative action related to the fiscal year 1974 nuclear weapons testing program and addition of waste storage and processing facilities at various sites.

These final environmental statements will be furnished upon request addressed to the Director, Division of Environmental Affairs, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Dated at Germantown, Md., this 27th day of April 1973.

For the Atomic Energy Commission.

GORDON M. GRANT,
Acting Secretary of the Commission.

[FR Doc.73-8694 Filed 5-2-73;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24180]

HAWAIIAN AIRLINES, INC.

Notice of Oral Argument Regarding Hana Suspension Case

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled matter is assigned to be held before the Board on June 20, 1973, at 10 a.m. (local time) in room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., April 27, 1973.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.73-8716 Filed 5-2-73;8:45 am]

[Docket No. 17484]

PAN AMERICAN WORLD AIRWAYS, INC., ENFORCEMENT PROCEEDING

Notice of Postponement of Hearing Regarding Enforcement Proceeding

Notice is hereby given that the hearing in the above-entitled proceeding previously scheduled for May 1, 1973 (38 FR 8014), is hereby postponed indefinitely.

Dated at Washington, D.C., April 26, 1973.

[SEAL] RICHARD M. HARTSOCK,
Administrative Law Judge.

[FR Doc.73-8717 Filed 5-2-73;8:45 am]

[Docket No. 24488, etc; Order 73-4-118]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Passenger-Fare Matters in Western Hemisphere; Correction

The subject order printed in the FEDERAL REGISTER on page 10495 of the issue for Friday, April 27, 1973, should be Order 73-4-118 and the adoption date should be April 27, 1973.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.73-8718 Filed 5-2-73;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE FEDERATIVE REPUBLIC OF BRAZIL

Entry or Withdrawal From Warehouse for Consumption

APRIL 30, 1973.

On February 23, 1973, there was published in the FEDERAL REGISTER (38 FR 5007) a letter dated February 22, 1973, from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs controlling imports of cotton textile products in category 64 (other than terry) produced or manufactured in the Federative Republic of Brazil and exported to the United States during the 12-month period beginning October 1, 1972. The purpose of this notice is to announce that this control is being lifted, effective as soon as possible.

Accordingly, there is published below a letter of April 30, 1973, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that the aforementioned control be lifted, effective as soon as possible.

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

APRIL 30, 1973.

DEAR MR. COMMISSIONER: This directive cancels the directive issued to you on February 22, 1973, by the Chairman, Committee for the Implementation of Textile Agreements, which established import controls on cotton textile products in category 64 (other than terry) produced or manufactured in the Federative Republic of Brazil.

Under the terms of the long-term arrangement regarding international trade in cotton textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of October 23, 1970, as amended, between the Governments of the United States and the Federative Republic of Brazil, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed, effective as soon as possible, to permit entry of cotton textile products in category 64 (other than terry) produced or manufactured in the Federative Republic of Brazil and exported to the United States during the period October 1, 1972, through September 30, 1973.

In carrying out this directive, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Federative Republic of Brazil and with respect to imports of cotton textile products from the Federative Republic of Brazil have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.73-8852 Filed 5-2-73;8:45 am]

COMMISSION ON AMERICAN SHIPBUILDING

NOTICE OF CLOSED MEETING

Pursuant to the requirements of the Federal Advisory Committee Act, notice is hereby given that there will be a meeting of the Commission on American Shipbuilding on Friday, May 11, 1973, at 9:30 a.m. The meeting will be held in the Commission's offices, room 1300, 1717 Pennsylvania Ave. NW., Washington, D.C. The meeting will be held for the purposes of reviewing reports prepared for the commissioners and of preparing the Commission's final report to the President and the Congress. Since matters pertaining to national security will be included in the review of reports received and in the preparation of the final report, the meeting will not be open to the public.

JOHN H. LANCASTER,
Executive Director.

[FR Doc.73-8695 Filed 5-2-73;8:45 am]

COMMITTEE FOR PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST

Notice of Withdrawal of Proposed Additions

Notice is hereby given that the commodities and services published on pages 824 and 825 of the FEDERAL REGISTER of January 19, 1972, as proposed additions to the initial procurement list are withdrawn except for those listed below.

COMMODITY

CLASS 7520

Box, Index Card	7520-234-6356
Box, Index Card	7520-285-3143
Box, Index Card	7520-285-3147

SERVICE

Mailing, Washington, D.C.

By the Committee.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.73-8689 Filed 5-2-73;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Availability

Environmental impact statements received by the Council from April 16 through April 20, 1973.

NOTE.—At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.

DEPARTMENT OF AGRICULTURE

Contact: Dr. T. C. Byerly, Office of the Secretary, Washington, D.C. 20250, 202-447-7803.

FOREST SERVICE

Draft

Vegetation manipulation with herbicides, Rio Arriba and Catron Counties, N. Mex., April 17: The proposal is for the use of the herbicide 2,4-D on several areas of the Apache and Santa Fe National Forests, in order to control invading sagebrush, rabbitbrush, snakeweed, and pingue (58 pages). (ELR Order No. 00653.) (NTIS Order No. EIS 73 0653-D.)

Anthony Lakes Unit, Wallowa Whitman National Forest, Grant, Union, and Baker Counties, Oreg., April 17: The proposal is for the relocation and consolidation of certain recreational activities, including camping facilities, picnicking grounds, and hiking trails, and the expansion of an adjacent privately owned ski area. There will be adverse visual impact, and some soil disturbance (59 pages). (ELR Order No. 00655.) (NTIS Order No. EIS 73 0655-D.)

Final

Cooperative spruce budworm suppression project, several counties in Maine, April 18: The statement refers to the proposed aerial spraying in late May and June 1973, of 500,000 acres of State and private woodlands in Aroostook, Penobscot, Piscataquis, and Washington Counties, in order to minimize further spruce budworm caused tree mortality. The chemical agents to be used are Zectran and fenitrothion. The insecticides may find their way into local water systems, with possible adverse effect to aquatic life (124 pages). Comments made by: USDA, DOC, EPA, and HEW. (ELR Order No. 00672.) (NTIS Order No. EIS 73 0672-F.)

SOIL CONSERVATION SERVICE

Final

Little Creek watershed, Wheeler and Laurens Counties, Ga., April 17: The statement considers a soil erosion and flood control program which would involve land treatment measures and the construction of 13 reservoirs. Approximately 193 acres of woodland and agricultural land will be inundated, along with 3.7 miles of intermittent streams (37 pages). Comments made by: DOC, DOI, EPA, and USDA. (ELR Order No. 00657.) (NTIS Order No. EIS 73 0657-F.)

Banlick Creek watershed project, Boone and Kenton Counties, Ky., April 17: The proposal is for a flood protection, recreation, and water storage project on the 37,800-acre watershed. Project features include land treatment measures, one single purpose structure, and three multiple purpose structures. Approximately 915 acres will be committed to the project. Some of this acreage, along with 8.5 miles of stream, will be inundated. Forty-eight families will be displaced (59 pages). Comments made by: COE, EPA, HEW, State and regional agencies, and concerned citizens. (ELR Order No. 00656.) (NTIS Order No. EIS 73 0656-F.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs, attention: DAEN-PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-7168.

Draft

Sweetwater River and State Route 54, San Diego County, Calif., April 18: The document, a revised draft, refers to a project for which a draft statement was filed on January 18, 1973 (ELR Order No. 00086; NTIS Order No. EIS 73 0086-D). The proposed project involves the construction of channel works and levees along 3.1 miles of the river, for the purpose of flood control. A State highway (State Route 54), will be constructed in conjunction with the channel, with lanes being built upon the levees. Salt water intrusion to the river will increase. Approximately 264 acres will be committed to the action; local development may be accelerated (84 pages). (ELR Order No. 00668.) (NTIS Order No. EIS 73 0668-D.)

Diked Disposal, Hart and Miller Islands, Baltimore County, Md., April 18: The proposal is for the creation of a diked disposal area adjacent to Hart and Miller Islands, in order to contain dredge spoil from channels in Baltimore Harbor and upper Chesapeake Bay. An 1,100-acre island will be created. Adverse impact will include unsightliness, obnoxious odors and disturbance of marine biota (144 pages). (ELR Order No. 00667.) (NTIS Order No. EIS 73 0667-D.)

FEDERAL POWER COMMISSION

Contact: Dr. Richard F. Hill, Acting Adviser on Environmental Quality, 441 G Street NW., Washington, D.C. 20426, 202-386-6084.

Draft

Chippewa Reservoir, Project No. 108, Sawyer County, Wis., April 18: The proposal is the approval of an application by Northern States Power Co. for a new license for the project. The project consists of a 1,290 foot long, 45 foot high dam, and 223,000 acre-feet reservoir. The project is a storage reservoir, with no power generating facilities. Eutrophication could increase with further recreational development (130 pages). (ELR Order No. 00661) (NTIS Order No. EIS 73 0661-D.)

Courthouse and Federal office building, Eugene, Lane County, Oreg., April 19: The proposal is for the construction of a new courthouse and office building of 105,021 gross square feet in the city of Eugene. The building will house 19 agencies, the U.S. courts, and congressional offices. There will be construction disruption (77 pages). (ELR Order No. 00677) (NTIS Order No. EIS 73 0677-D.)

Final

Social Security Payment Center, Pennsylvania, April 19: The statement refers to the

proposed construction of a seven-story (70,000 ft²) office building to house the Social Security Payment Center for the Department of Health, Education, and Welfare in Philadelphia. The immediate neighborhood of the site lacks commercial services for the workers (67 pages). Comments made by: USDA, HUD, DOC, EPA, AEC, and DOI. (ELR Order No. 00676) (NTIS Order No. EIS 73 0676-F.)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Rod Kreger, Acting Administrator, GSA-AD, Washington, D.C. 20405, 202-343-6077.

Draft

Courthouse-Federal Office Building, Charlotte Amalie, V.I., April 16: The proposed action consists of the construction of a Federal building to provide space for 150 employees of the U.S. courts, the U.S. Postal Service and 12 other Federal agencies. The three-story concrete-reinforced building will contain approximately 86,000 gross ft²; surface parking will be provided for 90 vehicles (22 pages). (ELR Order No. 00645.) (NTIS Order No. EIS 73 0645-D.)

Dwight D. Eisenhower Library, Dickinson County, Kans., April 6: The proposal is for major improvements at the Dwight D. Eisenhower Library. Included are the acquisition of land; the construction of additional parking facilities; the construction of a visitors' center; and the completion of landistors' center; and the completion of landscaping. These are intended to accommodate the increasing number of visitors. There will be adverse impact from construction disruption (52 pages). (ELR Order No. 00593.) (NTIS Order No. EIS 73 0593-D.)

Courthouse and Federal Office Building, Dayton, Ohio, April 16: The statement refers to the construction of a new Courthouse and Federal Office Building in Dayton. The building will accommodate the U.S. courts, a postal station, and 12 other Federal agencies. The facility will have a gross area of approximately 162,000 ft² in nine stories and a basement, and will house approximately 440 employees (38 pages). (ELR Order No. 00644.) (NTIS Order No. EIS 73 0644-D.)

Federal Office Building, Oklahoma City, Okla., April 18: The proposal is for the construction of a new Federal office building in Oklahoma City. The 441,000 gross ft² building will house several Federal agencies, and will provide parking for 600 vehicles. The site is in an urban renewal area of the city. There will be adverse impact from construction disruption (76 pages). (ELR Order No. 00662.) (NTIS Order No. EIS 73 0662-D.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Brown, Director, Environmental and Land Use Planning Division, Washington, D.C. 20410, 202-755-6186.

Draft

Historic Hill urban renewal, Newport, R.I., April 20: The statement refers to a 42.7-acre-urban-renewal area, two-thirds of which lies within the Newport Historic District. The proposal includes the acquisition of a number of properties, with the demolition of some and the rehabilitation of others, along with new construction. Demolition will result in the permanent loss of units which are on the National Register of Historic Places (76 pages). (ELR Order No. 00679.) (NTIS Order No. EIS 73 0679-D.)

Final

Chatham West I, Mass., April 20: The statement refers to the proposed construction of 300 units of multi-family housing on a 20.4-acre site in the city of Brockton. Adverse impacts of the project include the effects upon surface water runoff and upon the aesthetic environment of an adjacent park. Comments made by: DOC, COE, EPA, HEW, DOI, and DOT. (ELR Order No. 00680.) (NTIS Order No. EIS 73 0680-F.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, room 7260, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF LAND MANAGEMENT

Final

Outer Continental Shelf lease sale, Texas, April 13: The statement refers to the proposed sale of leases to 129 tracts (totaling 697,643 acres) of Outer Continental Shelf (OCS) lands offshore Texas. The tracts will be explored for oil and natural gas reserve; the sale will take place in late spring, 1973. All tracts offered pose some degree of pollution risk to the marine environment and/or adjacent shoreline; each is subject to a matrix analytical technique in order to evaluate significant environmental impacts should leasing and subsequent oil and gas exploration and production ensue. (approximately 650 pages). Comments made by: EPA, DOC, DOI, AEC, OEP, DOT, and agencies of Florida, Alabama, Mississippi, and Texas. (ELR Order No. 00630.) (NTIS Order No. EIS 73 0630-F.)

NATIONAL PARK SERVICE

Fossil Butte National Monument, Lincoln County, Wyo., April 11: The proposal is for the legislative designation of 8,180 acres as the Fossil Butte National Manument. The purpose of the action is that of preserving the greatest concentration of fossilized freshwater fish in the Nation, and one of the few such repositories in the world. (44 pages). Comments made by: USDA, COE, EPA, DOI, and State agencies. (ELR Order No. 00620.) (NTIS Order No. EIS 73 0620-F.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 Seventh Street SW., Washington, D.C. 20590, 202-466-4357.

Draft

Federal-Aid Highway and Mass Transportation Act of 1973, April 16: The proposed bill defines the proper use of highway moneys for transportation projects. The legislation provides for continuation of the Federal-aid highway program with a number of fundamental changes in funding highway construction and urban mass transportation facilities and equipment. The purposes of the changes are to: Provide increased resources to deal with metropolitan areas; provide increased flexibility to State and local governments to decide their transportation priorities by abolishing narrow categorical grant programs; and provide an assured pattern of program growth by funding both highway and public transit projects from the Highway Trust Fund (40 pages). (ELR Order No. 00648.) (NTIS Order No. EIS 73 0643-D.)

FEDERAL AVIATION ADMINISTRATION

Draft

Stephens County Airport, Stephens County, Tex., April 16: The statement refers to the proposed improvement of the existing county-owned airport located near Breckenridge. Approximately 6.04 acres of land will be acquired for runway extension and related improvements (30 pages). (ELR Order No. 00648.) (NTIS Order No. EIS 73-0648-D.)

FEDERAL HIGHWAY ADMINISTRATION

Addendum

Copper River Highway, Alaska, April 16: This addendum supplements the Copper River Highway environmental impact statement which was filed March 15, 1973 (ELR Order No. 00453; NTIS Order No. EIS 73 0453-D). The addendum assesses the impact of the first 39 miles of the Copper River Highway (21 pages). (ELR Order No. 00647.) (NTIS Order No. EIS 73 0647-D.)

Draft

Mission Street-Southeast Bellevue Street, Marion County, Salem, Oreg., April 9: The proposed project involves the reconstruction of the 12th Street-13th Street connector between Mission and Bellevue Streets. Total length of the project is 1,300 feet. The facility will result in increased noise and air pollution levels (20 pages). (ELR Order No. 00607) (NTIS Order No. EIS 73 0607-D.)

Final

Kellogg Freeway (U.S. 54/Kansas 96), Sedgwick County, Kans., April 18: The statement refers to the proposed reconstruction of 0.578 mile of Kellogg and 0.433 mile of Hillside Streets in Wichita. Sixty-two acres are required for additional right-of-way; 194 dwelling units housing approximately 600 persons will be displaced (145 pages). Comments made by: USDA, COE, EPA, USCG, and HUD. (ELR Order No. 00664) (NTIS Order No. EIS 73 0664-F.)

Kentucky 2408, Dutchmans Lane to Cannon Lane, Jefferson County, Ky., April 13: The statement refers to the proposed four-laning of 1.25 miles of existing two-lane Kentucky 2408 from Dutchmans Lane to Cannons Lane. Approximately 3.5 acres are required for additional right-of-way. Air pollution will increase due to increased usage of the facility (59 pages). Comments made by: HUD, DOI, USDA, EPA, and State agencies. (ELR Order No. 00638) (NTIS Order No. EIS 73 0638-F.)

UPPER MISSISSIPPI RIVER BASIN COMM.

Contact: Mr. George W. Griebenow, Chairman, Upper Mississippi River Basin Commission, Federal Building, room 510, Fort Snelling, Twin Cities, Minn. 55111, 612-725-4690.

Draft

Upper Mississippi River Basin Study, April 16: The proposal is for the approval and adoption of a framework for a program to be used as a guide for the future management and development of the basin's water and related land resources. Portions of South Dakota, Minnesota, Wisconsin, Michigan, Iowa, Illinois, Indiana, and Missiouri are included in the basin (18 pages). (ELR order No. 00646.) (NTIS Order No. EIS 73 0646-D.)

VETERANS ADMINISTRATION

Contact: Mr. William H. Bowen, 001-A, Staff Assistant to the Deputy Administrator, 810 Vermont Avenue NW., room 1127, Washington, D.C. 20420, 202-389-2830.

Final

Veterans Administration Hospital, Los Angeles County, Calif., April 17: The statement considers the construction of an 820-bed replacement hospital in Los Angeles. The hospital will be a major contribution to the medical education program of the UCLA Medical School. Construction will be disruptive to the area (27 pages). Comments made by: EPA, HEW, HUD, USDA, COE, DOI, and DOT. (ELR Order No. 00652) (NTIS Order No. EIS 73 0652-F.)

BRYAN P. JENNY,
Acting General Counsel.

[FR Doc.73-8768 Filed 5-2-73;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

PESTICIDE CONTROL ACT IMPLEMENTATION

Notice of Meeting

On January 9, 1973, the Environmental Protection Agency published in the FEDERAL REGISTER (38 FR 1142) an implementation plan for the Federal Environmental Pesticide Control Act of 1972. That document set forth the Agency's general plan for implementing the act, informed the public as to the dates when the different sections became or become effective, and invited preliminary views as to form and content of the regulations.

A further statement was published in the FEDERAL REGISTER (39 FR 3002) on January 31, 1973. This statement explained in detail the procedures to be followed by the Agency in supplementing those major sections of the act which become fully effective in from 1 to 4 years, and solicited comments from interested persons on specific questions and issues. The statement also designated six subgroups to consider in detail procedures for the implementation of sections 3, 4, 5, 7, 8, and 24 of the act, and listed the subgroups, their membership, and the issue areas to be considered by each group.

After further consideration of certain of the issues listed under the subgroup on registration of pesticides, it has been concluded that these issues should be discussed in a public meeting to afford interested parties an additional opportunity to participate in the rulemaking process.

Notice is hereby given that a 1-day meeting open to the general public will be held as follows:

May 16, 1973, 9 a.m., room 132, States Services Building, 1525 Sherman Street, Denver, Colo.

Suggestions and comments are invited from all interested parties on how the subgroup should treat the following issues:

1. *Procedures for registration of intrastate products.*—Pesticide products manufactured and distributed solely within a State are registered under State laws and will require Federal registration when regulations under section 3 are promulgated. Comments are invited on the part State agencies can carry out in accomplishing such registrations.

2. *Procedures for making registration data available under section 3(c)(2).*—Data and other scientific information relevant to product registration, with the exceptions provided in section 3, subsection (c)(1)(D) and section 10, must be made available to the public. Comments are invited on how this can best be accomplished within the regulatory process.

3. *Section 24(c)—State registration of pesticides to meet "special local needs".*—The act provides for delegation of authority to State agencies to issue limited registrations of intrastate products to meet special local needs. The State agency must be certified by the Administrator as capable of exercising the necessary control to insure that such registrations will be in accord with the purposes of the act. Comments are invited on what should be the requirements for State certification to register products under this provision.

Persons wishing to make their views known to this Agency are invited to attend this meeting. Oral statements will be limited, however, written statements may be filed for the record. Four copies will be required.

Done this 30th day of April 1973.

DAVID D. DOMINICK,
Assistant Administrator for Categorical Programs.

[FR Doc.73-8703 Filed 5-2-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 73-441]

PRIME TIME ACCESS RULE

Memorandum Opinion and Order Regarding Certain Stations

In the matter of request for waiver of the prime time access rule (§ 73.658(k)) to redesignate the hours of prime time for stations in Indianapolis, Ind., during the daylight-saving-time months.

1. The Commission here considers letter requests by the licensees of two of the three network-affiliated stations in Indianapolis, Ind. (WRTV, dated April 13, 1973, and WISH-TV, dated April 16, 1973), asking that the Commission redesignate the hours of prime time for the purpose of section 73.658(k) of the rules, for the Indianapolis market during the months when daylight-saving time is in effect in most of the United States but not in Indianapolis and certain other portions of the eastern and mountain time zones. A similar request was granted in April 1972. The third Indianapolis station has indicated its desire for the same change.

2. The reason for this request is that since New York and most of the United States observe daylight-saving time, network programs are moved up an hour in their time of origination. For those markets such as Indianapolis which remain on standard time, network prime-time programs originating from 8 to 11 p.m. New York time are actually received in these places from 7 to 10 p.m. local time during these months. These stations accordingly wish to change the designated prime hours to 6 to 10 p.m. local time. A similar change by rule is proposed in docket 19622, the overall prime-time access rule proceeding, decision in which is expected in the next few weeks.

3. This change appears appropriate, and accordingly, we here designate the hours from 6 to 10 p.m. local time, as prime time for the affiliated stations in the Indianapolis market. The Commission's Broadcast Bureau may take similar action with respect to other markets similarly situated (Detroit and Grand Rapids) if it is requested.

4. In view of the foregoing, *It is ordered*, That the hours of prime time, for the purpose of section 73.658(k), are redesignated as 6 to 10 p.m. local time, for the period starting Sunday, April 29, 1973, and ending Saturday, October 27, 1973, for stations in Indianapolis, Ind.

Adopted April 25, 1973.

Released April 30, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.73-8705 Filed 5-2-73;8:45 am]

FEDERAL CROP INSURANCE CORPORATION

[Notice 71]

PEANUTS—NORTH CAROLINA

Extension of the Closing Date for Filing of Applications for the 1973 Crop Year

Pursuant to the authority contained in § 401.103 of title 7 of the Code of Federal Regulations, the time for filing applications for peanut crop insurance for the 1973 crop year in the North Carolina counties listed below is hereby extended until the close of business on May 15, 1973. Such applications received during this period will be accepted only after it is determined that no adverse selectivity will result.

NORTH CAROLINA

Bertie.	Martin.
Chowan.	Nash.
Edgecombe.	Northampton.
Gates.	Pitt.
Halifax.	Washington.
Hertford.	

[SEAL] D. W. MCELWRATH,
Acting Manager, Federal Crop Insurance Corporation.

[FR Doc.73-8764 Filed 5-2-73;8:45 am]

[Notice 70]

TOBACCO—TYPE 12; NORTH CAROLINA

Extension of the Closing Date for Filing of Applications for the 1973 Crop Year

Pursuant to the authority contained in § 401.103 of title 7 of the Code of Federal Regulations, the time for filing applications for tobacco crop insurance for the 1973 crop year on type 12 tobacco in all counties in North Carolina where such insurance is otherwise authorized to be offered is hereby extended until the close of business on May 15, 1973. Such applications received during this period will be accepted only after it is determined that no adverse selectivity will result.

[SEAL] D. W. MCELWRATH,
Acting Manager, Federal Crop Insurance Corporation.

[FR Doc.73-8763 Filed 5-2-73;8:45 am]

[1] Commissioners Reid and Wiley absent.

FEDERAL POWER COMMISSION

[Docket No. R-411]

ACCOUNTING AND RATE TREATMENT OF ADVANCE PAYMENTS

Order Denying Rehearing

APRIL 26, 1973.

On February 27, 1973, the Commission issued an "Order of Clarification and Denial of Rehearing or Modification" of order No. 465 which was issued on December 29, 1972, in this docket. On March 29, 1973, Transcontinental Gas Pipe Line Corp. (Transco) filed an application for rehearing of the February 27, 1973, order.

Transco alleges that the February 27, 1973, order made a substantive change in order No. 465 wherein it clarified ordering paragraph H of the accounting section of order No. 465 by stating that nonrecoverable advances must cease receiving rate base treatment at the time the advance is recognized as nonrecoverable, regardless of whether or not the Commisison permits the amounts of such nonrecoverable advances to be charged to account 186 for amortization to account 813 as a cost-of-service item over a 5-year period. Transco requests that the Commission grant rehearing and provided that nonrecoverable advances properly amortized to cost-of-service be allowed continued rate base treatment "to the extent of the unamortized portion thereof." Transco states that since the February 27, 1973, order "clearly went beyond a mere 'clarification' of order No. 465," the present application for rehearing lies.

Transco's assertions are without merit. The language in our February 27, 1973, order (mimeo, p. 5) dealing with paragraph H of order No. 465 restates this Commission's continuing policy of removing nonrecoverable advances from rate base at the time such advances are recognized as nonrecoverable.[1] Moreover in the order denying rehearing of order No. 441, supra, we stated in response to a question as to whether a return will be allowed on such advances that "* * * (t)here is no provision for the inclusion in rate base of amounts (i.e., the unamortized balances of nonrecoverable advances) that must be eliminated from account 166"[2] order No. 465 and paragraph H thereof made no departure from this policy (mimeo p. 14). Therefore our February 27, 1973, order made no substantive change in order No. 465 and Transco's application for rehearing raises no issues which were not considered in February 27, 1973, order.

The Commission finds

Transco's application for reharing presents no new facts or principles of law which were not considered in the February 27, 1973, order or which having been considered, warrant any change or modification of that order.

The Commission orders

Transco's application for rehearing is hereby denied.

By the Commission.

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

[FR Doc.73-8725 Filed 5-2-73;8:45 am]

[1] See order No. 410, 44 F.P.C. 1142 at 1146; order No. 441, 46 F.P.C. 1178 at 1182.

[2] Order of clarification and denial of rehearing or modification, 47 F.P.C. 57, at 58.

[Docket No. E-7775]

APPALACHIAN POWER CO.

Notice of Further Extension of Time and Postponement of Prehearing Conference and Hearing

APRIL 25, 1973.

On April 20, 1973, counsel for the interveners, the cities of Bedford, Va. et al., filed a motion to further extend the service and hearing dates as established by notice issued March 26, 1973, in the above-designated matter. The motion states that the staff agreed to the request.

Upon consideration, notice is hereby given that the procedural dates are further modified as follows:

Staff's service date, May 30, 1973.
Prehearing conference, June 5, 1973 (10 a.m., e.d.t.).
Interveners' service date, June 12, 1973.
Company rebuttal service date, June 19, 1973.
Hearing, July 12, 1973 (10 a.m., e.d.t.).

By the Commission.[1]

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-8726 Filed 5-2-73;8:45 am]

ARIZONA PUBLIC SERVICE CO., ET AL.

Notice of Applications

APRIL 25, 1973.

Take notice that each of the applicants listed herein has filed an application pursuant to section 205 of the Federal Power Act and part 35 of the regulations issued thereunder.

Any person desiring to be heard or to make any protest with reference to said filing should on or before May 8, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or 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. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The applications are on file with Commission and available for public inspection.

[1] New address of the Federal Power Commission will be: 825 North Capitol Street NE., Washington, D.C.

Docket No.	Date filed	Company	Action
E-8095	Mar. 26, 1973	Arizona Public Service Co.	Company files supplement No. 11 to the wholesale power supply agreement with the Navaho tribe of Indians. The company states that the amendment permits the tribe to obtain 13,125 kilowatts plus 5,000 kilowatts from each of the first three units of the Navaho Generating Station located on the Navaho Reservation near Page, Ariz.
E-8096	Mar. 29, 1973	Public Service Co. of Oklahoma.	Company files notice of cancellation of supplement No. 6 to rate schedule FPC No. 161, which is a letter agreement dated Apr. 24, 1972, between the company and Kansas Gas & Electric Co. The proposed effective date is Apr. 30, 1973.
E-8097	do	Commonwealth Edison Co.	Company files third Revised Sheet No. 71, superseding second Revised Sheet No. 71, fifth Revised Sheet No. 75, superseding fourth Revised Sheet No. 75, first Revised Sheet No. 75A, original sheet No. 75AA, superseding original sheet No. 75A, first Revised Sheet No. 75B, superseding original sheet No. 75B, sixth Revised Sheet No. 199, superseding fifth Revised Sheet No. 199. The company proposes an effective date of Apr. 28, 1973, for the filing, which will follow the date on which service to Geneva through its fifth point of supply is expected to be initiated by no more than 2 weeks.
E-8098	do	Pacific Power & Light Co.	Company files a contract dated Dec. 1, 1972, between Pacific Power & Light Co. and Black Hills Power & Light Co. The agreement provides for the sale of electric power and energy to Black Hills Power & Light Co. in amounts not less than 11,000 kW nor more than 40,000 kW. Service under this agreement is scheduled to commence on either Dec. 30, 1974, or the date that the Buffalo-Gillette transmission line is placed in commercial operation, whichever occurs later. The company requests waiver of the prior notice requirement in order to permit the rate schedule to become effective 30 days after filing which is more than 90 days prior to the commencement of service.

Docket No.	Date filed	Company	Action
E-8103	Mar. 30, 1973	....do	Company files an emergency sales agreement between Pacific Gas & Electric Co. and Pacific Power & Light Co. dated Dec. 22, 1972. Also filed is a notice of cancellation of the rate schedule filed herewith. Such notice is required because all sales have been completed and the agreement has expired by its own terms. Associated energy sales were 19,475,000 kilowatt hours. Total charges were $83,871 for capacity and $168,525 for energy, a total of $252,396. The proposed effective date is Dec. 8, 1972, and waiver is requested to allow the filing to be effective as of that date. Copies of this filing have been sent to Pacific Power & Light Co. and to the California Public Utilities Commission.
E-8108	Apr. 3, 1973	Central Louisiana	Company files three letter agreements with the city of Alexandria which were made in accordance with supplement No. 4 to its FPC rate schedule No. 19. By letter agreement dated Jan. 10, 1972, the city of Alexandria agrees that it will be short 6,000 kilowatts of reserve capacity which will be provided by the company under service schedule B for $12 per kilowatt per year a total of $72,000. The letter agreement dated Oct. 13, 1972, adjusts the reserve capacity purchased from the company to the actual requirements after the peak summer load. This adjustment reduced the purchase from 6,000 kilowatts to 4,000 kilowatts and reduced the anticipated income from $72,000 to an actual income of $48,000 as stated by the company. The third letter agreement filed consists of a letter concerning the city's requirements for 1973, dated Dec. 11, 1971, wherein the city of Alexandria agrees to purchase 19,000 kilowatts of reserve capacity for 1973 at $12 per kilowatt per month for which the company anticipates a revenue of $228,000. According to the company, the city is also purchasing 4,000 kilowatts of load capacity for $18 per kilowatt per year for the 12 months beginning Jan. 1973.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-8397 Filed 5-2-73;8:45 am]

[Docket No. CI72-654]

BARNWELL, INC.

Notice of Filing of Settlement Agreement

APRIL 26, 1973.

Take notice that on April 3, 1973, Barnwell, Inc. (Barnwell), filed with the Commission a proposed settlement agreement in the above-titled proceeding. The agreement provides for settlement of Barnwell's application to abandon its sale to Texas Gas Transmission Corp. (Texas Gas), under its FPC gas rate schedule No. 1. The agreement states that pressure on the producing wells dedicated to Texas Gas declined so that gas cannot be produced against the pressure of Texas Gas' transmission line. The settlement agreement entered into by Barnwell and Texas Gas provides that Texas Gas will reimburse Barnwell for its actual compression costs involved in producing the gas and delivering it into the main transmission line.

This compression agreement provides a sliding schedule of rates per thousand cubic feet for the cost of compression based upon monthly throughput.

In accordance with this settlement proposal, Barnwell will also file a rate supplement to reflect their currently effective rate plus the applicable compression charges based upon the monthly deliveries of gas.

Copies of this settlement agreement were served on all parties to this proceeding.

Any person desiring to be heard or to make any protest with reference to this filing should on or before May 14, 1973, file with the Federal Power Commission, Washington, D.C., petitions to intervene, protests, or notices of intervention in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as parties in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-8727 Filed 5-2-73;8:45 am]

[Docket No. RP71-106]

CITIES SERVICE GAS CO.

Notice of Change in Location of Hearing

APRIL 27, 1973.

Notice is hereby given that the prehearing conference in the subject docket scheduled to convene in a hearing room of the Federal Power Commission on May 10, 1973, and the hearing therein scheduled to convene on June 27, 1973, will convene in a hearing room at the new Federal Power Commission location, on the second floor of the Union Center Plaza Building at 825 North Capitol Street NE., Washington, D.C. 20426, at the times heretofore prescribed.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-8728 Filed 5-2-73;8:45 am]

[Docket No. RP73-93]

COLORADO INTERSTATE GAS CO.

Order Accepting for Filing and Suspending Proposed Rate Increase

APRIL 27, 1973.

On March 30, 1973, Colorado Interstate Gas Co. (CIG), filed first revised sheets Nos. 5, 6, and 66 to its FPC gas tariff, second revised volume No. 1, providing for a general increase in rates to its jurisdictional customers. The proposed increased rates include $9.6 million reflecting CIG's purported increase in present operations and a $10.1 million annual revenue increase which is dependent upon its pending application in docket No. CP73-184 to transfer its production properties to its newly formed subsidiary, CIG Exploration, Inc. (Exploration). The proposed increase would therefore add $19.7 million annually to company revenues over the income generated by the settlement rates proposed in docket No. RP72-113, presently before this Commission.

CIG states that the increased jurisdictional cost of service is for a test period based on the calendar year ending December 31, 1972, adjusted to include the annualized effect of changes which are known and measurable with reasonable accuracy and which will become effective by September 30, 1973. The company further states that the principal increased costs result from additional facilities, additional research and development, and advance payments for gas supplies, a proposed rate of return of 9.15 percent, and the proposed transfer of CIG's production properties.

The company indicates that, should the property transfer be approved in docket No. CP73-184 prior to the date on which the rates proposed in this docket become effective, it will file appropriate substitute rates to reflect the effect of the property transfer. If such approval does not occur prior to such date, however, CIG proposes to file substitute rates, lower than those proffered herein, reflecting the continuation of its ownership of the production properties. These lower rates would continue to be effective until such date as the authorizations requested in that docket is granted.

Because of the reliance of its filing in part on uncertificated plant additions,[1] CIG requests waiver of § 154.63(e)(2)(ii) of the regulations to the extent required to permit such cost to be reflected in the subject rate filing.

The filing was noticed on April 10, 1973, with letters of protest and petitions to intervene due on or before April 20, 1973. On April 17, 18, 19, and 20, 1973, various petitions to intervene were received from the following: (1) Cheyenne Light, Fuel, and Power Co., (2) Citizens Utilities Co., (3) the City and County of Denver, Colo., (4) Kansas-Nebraska Natural Gas Co., Inc., (5) Mountain Fuel Supply Co., (6) The Pueblo Gas Fuel Co., (7) Public Service Co. of Colorado, (8) Western Slope Gas Co., (9) Peoples Natural Gas Division of Northern Natural Gas Co., and (10) Natural Gas Pipeline Co. of America. A notice of intervention was filed by the Public Utilities Commission of the State of Colorado on April 23, 1973.

Our review of the filing indicates that it raises certain issues which may require development in an evidentiary hearing. The proposed increases in rates and charges have not been shown to be

[1] Which are the subject matter of dockets Nos. CP73-44, CP73-100, CP73-174, CP73-237, CP73-238, and CP73-250.

just and reasonable and may be unjust unreasonable, unduly discriminatory, or preferential or otherwise unlawful. We shall therefore order a suspension of the rates proposed herein for the full statutory period.

With respect to the request for waiver of § 154.63(e)(2)(ii) of the regulations, we shall grant such request with the condition that if the transfer of the production properties and other new facilities have not been certified, and such facilities placed in service, CIG will file substitute rates reflecting only those facilities which have been certified.

The Commission finds

(1) The proposed tariff sheets should be suspended and the use thereof deferred for 5 months until October 1, 1973.

(2) The requested waiver of § 154.63(e)(2)(ii) of the regulations should be granted.

(3) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in CIG's FPC Gas Tariff, second revised volume No. 1, as proposed to be amended in this docket.

(4) The disposition of this proceeding should be expedited in accordance with the procedure set forth below.

(5) Good cause exists to permit the above-named petitioners for intervention to intervene.

The Commission orders:

(A) The tariff sheets filed by CIG on March 30, 1973, are accepted for filing and suspended as hereinafter ordered.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR ch. I), a public hearing shall be held, commencing with a prehearing conference on September 6, 1973, at 10 a.m., e.d.t., in a hearing room of the Federal Power Commission, concerning the lawfulness and reasonableness of the rates and charges contained in CIG's FPC Gas Tariff, second revised volume No. 1, as proposed to be amended herein.

(C) At the prehearing conference on September 6, 1973, CIG's prepared testimony (statement P) together with its entire rate filing shall be admitted to the record as its complete case-in-chief subject to appropriate motions, if any, by parties to the proceeding. All parties will be expected to come to the conference.

(D) On or before August 24, 1973, the Commission staff shall serve its prepared testimony and exhibits. Any intervenor evidence will be filed on or before September 10, 1973. Any rebuttal evidence by CIG shall be served on or before October 4, 1973. The public hearing herein ordered shall convene on October 16, 1973, at 10 a.m., e.s.t.

(E) A presiding administrative law judge to be designated by the chief administrative law judge for that purpose (see Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in § 2.59 of the Commission's rules of practice and procedure.

(F) Pending hearing and a decision thereon the CIG tariff sheets as amended are suspended for the full statutory period and the use thereof deferred until October 1, 1973, and until such further time as they are made effective in the manner provided in the Natural Gas Act: *Provided*, That if approval in docket No. CP73-184 has not been granted by October 1, 1973, CIG must file appropriate substitute rates to reflect the continuation of its ownership of the production properties which are the subject of that docket, and appropriate rates reflecting those facilities subject of dockets Nos. CP73-44, CP73-100, CP73-174, CP73-237, CP73-238, and CP73-250 certified on or before October 1, 1973.

(G) The petitions to intervene noted in this order are hereby accepted and the petitioners shall be made parties to the foregoing proceeding: *Provided, however*, That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any orders entered in this proceeding.

(H) Waiver of § 154.63(e)(2)(ii) of our regulations is hereby granted.

(I) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

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

[FR Doc.73-8729 Filed 5-2-73;8:45 am]

[Dockets Nos. CP73-283 and CP73-284]

CONSOLIDATED SYSTEM LNG CO.

Notice of Applications

APRIL 27, 1973.

Take notice that on April 19, 1973, Consolidated System LNG Co. (Applicant), 445 West Main Street, Clarksburg, W. Va. 26301, filed in Dockets Nos. CP73-283 and CP73-284 applications pursuant to sections 7(c) and 3 of the Natural Gas Act, respectively, for a certificate of public convenience and necessity authorizing the construction and operation of a 6,800-hp compressor station near Leesburg, Va., on Applicant's Loudoun-Leidy line, proposed in Docket No. CP71-290, and the sale for resale of natural gas to Consolidated Gas Supply Corp. (Supply) and for an order authorizing the importation of liquefied natural gas (LNG). All proposals are more fully set forth in the applications which are on file with the Commission and open to public inspection.

Applicant seeks authorization in Docket No. CP73-283 to construct and operate a 6,800-hp compressor station (Leesburg station) near the south terminus of the Loudoun-to-Leidy pipeline proposed in Docket No. CP71-290, in which Applicant plans to transport 500,000 Mcf daily of vaporous gas. The estimated cost of the facilities is $5,541,000 which is to be financed, as funds are required, by sales to Consolidated Natural Gas System of Applicant's nonnegotiable long-term notes and common stock.

Applicant seeks authorization for the sale for resale of up to 61,593,750,000,000 Btu of LNG annually or the equivalent of 150,000 Mcf daily of vaporous gas to Supply. Applicant proposes to deliver these volumes from the Cove Point, Md., importation point to Loudoun, Va., and there to Supply's Leidy storage field in Clinton County, Pa., via the pipeline proposed in Docket No. CP71-290. The estimated cost by Applicant to Supply on a cost of service basis is 141.88 cents per Mcf for 1979.

To obtain the heretofore mentioned 150,000 M ft^3 daily of vaporous gas, Applicant seeks authorization in Docket No. CP73-284 to import yearly 61,593,750 million Btu of LNG it has contracted to purchase from El Paso Algeria for 25 years. Applicant indicates that the LNG will be produced in Algeria by Societe Nationale SONATRACH (Sonatrach) and will be purchased at the loading port by El Paso Algeria, which will sell the LNG to Applicant on the high seas at a point on the 50th meridian, west longitude, aboard LNG tankers en route to the United States.

Applicant states that the LNG will be delivered to authorized facilities jointly under construction by Applicant and Columbia LNG Corp. in Cove Point, Md.

Applicant estimates that the cost of the LNG sold to it by El Paso Algeria will be approximately $1.04 per million Btu delivered. Applicant indicates that the natural gas to be liquefied by Sonatrach will be produced, gathered, and transported to its liquefaction plant from the Hassi R'Mel Gas Field and that Sonatrach's existing recoverable reserves as of January 1, 1973, are estimated to be 85 trillion M ft^3. Applicant alleges that the total annual quantity delivered to it is 15 percent of the annual quantity of 410,615 billion Btu of LNG which El Paso Algeria has contracted to purchase from Sonatrach for the next 25 years.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 21, 1973, file with 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 the application in docket No. CP73-283 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.73-8719 Filed 5-2-73;8:45 am]

[Docket No. E-7906]

DETROIT EDISON CO.

Extension of Time and Postponement of Prehearing Conference and Hearing

APRIL 26, 1973.

On April 9, 1973, Detroit Edison Co. requested on extension of the procedural dates as established by order issued January 8, 1973, in the above-designated matter. The request states that Consumers Power Co. interposes no objection.

Upon consideration, notice is hereby given that the procedural dates are modified as follows:

Service of staff testimony and exhibits, Aug. 6, 1973.
Service of testimony and exhibits by intervenors, Aug. 20, 1973.
Service of rebuttal evidence by Detroit Edison, Sept. 3, 1973.
Prehearing conference, Sept. 10, 1973 (10 a.m., e.d.t.).
Cross-examination Sept. 26, 1973. (10 a.m., e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-8730 Filed 5-2-73;8:45 am]

[Dockets Nos. CP73-258—CP73-260]

EL PASO EASTERN CO. AND EL PASO NATURAL GAS CO.

Notice of Applications

APRIL 27, 1973.

Take notice that on April 4, 1973, El Paso Eastern Co. (El Paso Eastern), P.O. Box 2185, Houston, Tex. 77001, filed in Dockets Nos. CP73-258 and CP73-259, applications pursuant to sections 3 and 7(c) of the Natural Gas Act, respectively, for an order authorizing the importation of liquefied natural gas (LNG) and for a certificate of public convenience and necessity authorizing the delivery of natural gas to Transcontinental Gas Pipe Line Corp. (Transco) on an exchange and transportation basis and the sale and delivery of gas to El Paso Natural Gas Co. (El Paso). Take further notice that on April 4, 1973, El Paso, P.O. Box 1492, El Paso, Tex. 79978, filed in Docket No. CP73-260 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 certain facilities on its Southern Division System and the transportation of gas. All proposals are more fully set forth in the applications which are on file with the Commission and open to public inspection.

El Paso Eastern in Docket No. CP73-258 seeks authorization to import approximately 154 trillion Btu annually of LNG or the equivalent of approximately 375,000 M ft³ of vaporous gas daily, it has contracted to purchase from El Paso Algeria Corp. (El Paso Algeria) for 25 years after the initial buildup period. El Paso Eastern indicates that the LNG will be produced in Algeria by Societe Nationale SONATRACH (Sonatrach) and will be purchased by El Paso Algeria from Sonatrach f.o.b. ship's rail, Arzew, Algeria. El Paso Eastern states that El Paso Algeria will sell the LNG on the high seas to El Paso Eastern at a point on the 15th meridian, west longitude aboard LNG tankers en route to the United States, to be delivered to the facilities to be constructed, owned, and operated by Transco Terminal Co. (Transco Terminal) in Gloucester County, N.J.

El Paso Eastern indicates that the quantities it is purchasing are part of the total quantities of LNG El Paso Algeria will purchase from Sonatrach for sale to the following importers:

(i) El Paso Eastern proposes to purchase 153,984,375 million Btu annually (equivalent to 375,000 of M ft³ of vaporous gas daily) to be delivered to Transco Terminal in Gloucester County, N.J.;

(ii) Transco Energy Co. will purchase 153,984,375 million Btu annually (equivalent to 375,000 of M ft³ vaporous gas daily) to be delivered to Transco Terminal in Gloucester County, N.J.;

(iii) Consolidated System LNG Co. will purchase 61,593,750 million Btu annually (equivalent to 150,000 M ft³ of vaporous gas daily) to be delivered at Cove Point, Md.; and

(iv) Southern Energy Co. will purchase 41,062,500 million Btu annually (equivalent to 100,000 M ft³ of vaporous gas daily) to be delivered at Savannah, Ga.

El Paso Eastern indicates that the natural gas to be liquefied by Sonatrach will be produced, gathered, and transported to its liquefaction plant from the Hassi R'Mel Gas Field and that Sonatrach's existing and future recoverable gas reserves as of January 1, 1973, are estimated to be 85 billion M ft³.

El Paso Eastern estimates that the cost of the LNG sold to it by El Paso Algeria will be approximately 102.87 U.S. cents per million Btu delivered and states that it will pay a pro rata share to Transco Terminal for the monthly costs of unloading, regasification, storage, and processing the imported LNG.

El Paso Eastern in Docket No. CP73-259 seeks certificate authorization to deliver the natural gas from Transco Terminal to Transco on an exchange and transportation basis at the Gloucester County, N.J., importation point and to sell gas to El Paso, to be transported and delivered to El Paso by Transco in Refugio County, Tex. El Paso Eastern indicates that it has agreed to pay Transco a negotiated rate of 9.23 cents per million Btu for the transportation service. El Paso Eastern would be paid by El Paso for the aggregate of the payments it is required to make to El Paso Algeria, Transco Terminal, and Transco, which will be approximately $1.41 per M ft³ during the first year of operations.

El Paso Eastern indicates that it will not be required to install, operate, or maintain any facilities to effectuate its proposals in Dockets Nos. CP73-258 and 259. Transco will install, own, operate, and maintain at the Refugio County, Tex., delivery point and, at Transco Terminal's facilities, all tap and measuring facilities required for the exchange and delivery described.

In conjunction with the applications of El Paso Eastern, El Paso in Docket No. CP73-260 seeks authorization necessary to connect its Southern Division System with the system of Transco at the delivery point in Refugio County, Tex., where it will receive approximately 372,500 M ft³ of gas daily purchased from El Paso Eastern. El Paso states that it will utilize the additional supply in maintaining existing levels of firm service to existing customers on its Southern Division System. El Paso anticipates initial deliveries in mid-1977, with full deliveries starting in the latter part of 1978.

El Paso proposes to construct approximately 418.5 miles of 24-inch o.d. pipeline from the Transco delivery point in Refugio County to a point of connection near El Paso's facilities in Reeves County, Tex. Additionally, El Paso proposes to install 50,716 compressor horsepower at five new compressed stations along the proposed new pipeline. The application indicates a total estimated cost of $87,999,014, to be financed by working funds and short-term borrowing.

El Paso states that its Southern Division System is experiencing supply shortages that by early 1977 will amount to 1,358,000 M ft³ daily. El Paso intends to use the gas from this project, 372,500 M ft³ daily coupled with the 250,000 M ft³ daily from its proposed coal gasification project for which an application is pending in docket No. CP73-131, to offset a significant portion of this deficiency. El Paso indicates that, with the exceptions of the proposed facilities in docket No. CP73-260, its Southern Division System has sufficient unused capacity to handle the additional supply.

El Paso states that it has agreed to pay El Paso Eastern the aggregate of all payments El Paso Eastern is required to make in providing for the delivery of the additional supply at the Refugio County delivery point. During the first full year of operation the cost of the additional gas supply to El Paso at the Reeves County interconnection is estimated to be $1.57 per M ft³ (1,029 Btu/ft³), based upon estimates of costs at current levels, inclusive of the cost associated with El

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[1] New address of the Federal Power Commission will be 825 North Capitol Street NE., Washington, D.C.

Paso's proposed facilities. On the same basis, the projected economic impact of the proposed project upon El Paso's Southern Division System average cost of service per thousand cubic feet of gas sales in an average of 13c M ft³. El Paso proposes that the purchased gas cost incurred as a result of additional gas supply to be obtained as the result of the instant project be included in the cost of gas subjected to El Paso's purchased gas cost adjustment provision contained in its FPC Gas Tariff, Original Volume No. 1, applicable to the Southern Division System.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 21, 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, hearings will be held without further notice before the Commission on the applications in Dockets Nos. CP73-259 and CP73-260 if no petitions to intervene are filed within the time required herein, if the Commission on its own review of the matter finds that grants of the certificates are required by the public convenience and necessity. If petitions for leave to intervene are timely filed, or if the Commission on its own motion believes that formal hearings are required, further notice of such hearings will be duly given.

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

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-8720 Filed 5-2-73;8:45 am]

[Docket No. CP70-138]

EL PASO NATURAL GAS CO.

Notice of Petition To Amend

APRIL 26, 1973.

Take notice that on March 24, 1973, El Paso Natural Gas Co. (Petitioner), PO Box 1492, El Paso, Tex. 79978, filed in docket No. CP70-138 a petition to amend the order issued in said docket on May 12, 1970 (43 FPC 723), as amended February 9, 1971 (45 FPC 252), pursuant to section 3 of the Natural Gas Act, by authorizing Petitioner to import natural gas purchased under the terms of an amended service agreement, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

By Commission order in docket No. CP70-138, inter alia, Petitioner was authorized to import natural gas from Canada, to be purchased from Westcoast Transmission Co. Ltd. (Westcoast) in accordance with an agreement between Petitioner and Westcoast as amended by the Fourth Service Agreement (FSA), which provides for the delivery of 800,000 M ft³ of gas daily as of November 1, 1972.

Petitioner states that it and Westcoast have entered upon a Third Amending Agreement (TAA) dated March 1, 1973, to amend the FSA to enable Westcoast to charge Petitioner its share of Westcoast's increased gas costs and to enable Westcoast to acquire new gas reserves by an advance payment program to producers for the sale of an additional 400,000 M ft³ of gas daily to Petitioner for which Petitioner will pay a certain part of the advance payments. In addition, Petitioner states that pursuant to the TAA it will pay a 1.5-cent per M ft³ increase in the commodity charge of the FSA. Finally, Petitioner indicates that it and Westcoast have agreed in the TAA to certain changes in the currency adjustment provisions of the FSA.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 18, 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 Comission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-8731 Filed 5-2-73;8:45 am]

[Docket No. CP73-263]

LONE STAR GAS CO.

Notice of Application

APRIL 27, 1973.

Take notice that on April 5, 1973, Lone Star Gas Co. (Applicant), 301 South Harwood Street, Dallas, Tex. 75201, filed in docket No. CP73-263, an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon 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 by removal its remaining 880 hp compressor at the Fox Compressor Station No. 2 located in Carter County, Okla., at a cost of $8,000. Applicant indicates that the compressor has not operated since December 16, 1969, because the flow of gas in its pipeline has been reversed and that the proposed abandonment will not result in the elimination or reduction of natural gas service to any of its customers. The application indicated that Applicant will reinstall this compressor as the Durant Compressor Station proposed the application in docket No. CP70-313.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 18, 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.73-8721 Filed 5-2-73;8:45 am]

[Dockets Nos. G-10426, CP70-137; G-8934, G-10008]

EL PASO NATURAL GAS CO.

Notice of Change in Location of Hearing

APRIL 25, 1973.

Notice is given that the hearing scheduled to convene in a hearing room of the Federal Power Commission in the above-entitled matters on June 5, 1973, will convene in a room at the new Federal Power Commission location on the second floor of the Union Center Plaza Building at 825 North Capitol Street NE., Washington, D.C. 20002, at the time heretofore prescribed.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-8732 Filed 5-2-73;8:45 am]

[Dockets Nos. RP72-150 et al.]

EL PASO NATURAL GAS CO.

Notice of Further Postponment of Procedural Dates

APRIL 26, 1973.

On April 20, 1973, El Paso Natural Gas Co. filed a motion for a further postponement of the procedural dates. The motion states that all counsel consent to the granting of this motion.

Upon consideration, notice is hereby given that the procedural dates in the above matter are further modified as follows:

Service of intervener's evidence, May 25, 1973.
Service of El Paso's rebuttal evidence, June 8, 1973.
Hearing and commencement of cross-examination,[1] June 19, 1973 (10 a.m., e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-8733 Filed 5-2-73;8:45 am]

[Docket No. CP73-279]

FLORIDA GAS TRANSMISSION CO. AND TRUNKLINE GAS CO.

Notice of Application

APRIL 26, 1973.

Take notice that on April 16, 1973, Florida Gas Transmission Co. (Florida), P.O. Box 44, Winter Park, Fla. 32789, and Trunkline Gas Co. (Trunkline), P.O. Box 1642, Houston, Tex. 77001, filed in docket No. CP73-279 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation of facilities and 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.

Florida proposes to receive by means of existing facilities natural gas produced by Atlantic Richfield Co. (Atlantic Richfield) in the Pledger Field, Brazoria County, Tex., and purchased by Trunkline. Florida proposes further to deliver natural gas to Trunkline at existing facilities at the intersection of Florida's Texas main line facilities and Trunkline's 16-inch Chocolate Bayou lateral near Alvin in Brazoria County.

By application filed April 12, 1973, in docket No. CI73-691 Atlantic Richfield Co. states that it commenced the sale of natural gas on said date to Trunkline within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and in said application seeks authorization to continue said sale for 6 months from the end of the 60-day emergency period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). In its application Atlantic Richfield proposes to sell up to 100,000 M ft³ of gas per day and estimates monthly deliveries at 75,000 M ft³ of gas.

Applicants state that the interconnection near Alvin was constructed at a cost of $34,000 to Trunkline to receive gas delivered during the 60-day emergency period and they request authorization to retain in place and operate said facilities for the transportation of natural gas during the 6-month sale. They state further that they contemplate that said facilities will be retained as a permanent interconnection for use for emergency deliveries between them.

Florida proposes to transport up to 100,000 M ft³ of gas per day for Trunkline and to deliver to Trunkline volumes thermally equivalent to those received from Atlantic Richfield, less incremental fuel and other company use volumes not expected to exceed 400 M ft³ per day. Applicants state that imbalances in deliveries will be corrected after the 6-month term.

It appears reasonable and consistent with the public interest in this case to prescribe a period short 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 May 10, 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 applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-8735 Filed 5-2-73;8:45 am]

[1] New address of the Federal Power Commission will be: 825 North Capitol Street NE., Washington, D.C.

[Docket No. E-8122]

IDAHO POWER CO.

Notice of Filing of Superseding Rate Schedule

APRIL 25, 1973.

Take notice that on April 10, 1973, Idaho Power Co. (Idaho) tendered for filing service schedule E-6, interconnection agreement between Idaho Power Co. and Utah Power & Light Co., dated March 4, 1941. Idaho states that service schedule E-6 cancels and supersedes schedule E-5, dated February 24, 1964, being part of the interconnection agreement between Utah, Idaho, and Montana, dated March 4, 1941. Idaho states further that this new service schedule between Idaho and Utah Power & Light Co. (Utah) establishes an energy exchange agreement between the companies so that Idaho will make available and deliver to Utah such surplus hydroenergy that it may have available from time to time for replacement of thermal generated energy. Idaho requests that the enclosed supplement become effective 30 days after filing.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 8, 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 application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-8736 Filed 5-2-73;8:45 am]

[Docket No. E-8125]

KANSAS POWER & LIGHT CO.

Notice of Proposed Changes in Rates and Charges

APRIL 25, 1973.

Take notice that on April 13, 1973, the Kansas Power & Light Co. (Kansas), tendered for filing Kansas' FPC Rate Schedules 95 and 100 through 115. Kansas states that these rate schedules, which pertain to service by Kansas at wholesale to 17 rural electric cooperatives, are the product of negotiations between representatives of Kansas and a representative committee of managers acting on behalf of the 17 cooperatives. The rate schedule is proposed to be effective for deliveries of power and energy on and after May 15, 1973. Kansas states that the proposed rate schedules will increase revenues from this class of service by $675,997 based on sales for the test year 1972. Kansas states further that all of the increase is reflected in the

revised capacity charges. According to Kansas these have also been changes in the rate schedule to update the fuel adjustment base, to adjust power factor to coincide with current information and to increase the credit to the customer for delivery points at transmission voltage. In addition Kansas states that copies of the items filed herewith have been mailed to the 17 cooperatives and to the State Corporation Commission of the State of Kansas.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 7, 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 application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-8734 Filed 5-2-73;8:45 am]

[Docket No. CP62-179]

LONE STAR GATHERING CO.

Notice of Filing of Refund Report

APRIL 26, 1973.

Take notice that on July 9, 1970, Lone Star Gathering Co. (Lone Star), tendered for filing a refund report wherein it stated that on June 24, 1970, it refunded $176,040.55 ($138,986.33 principal and $37,054.22 interest) to United Gas Pipeline Co. (United). The company states that the refunds are made in compliance with paragraph (C) of a Commission order issued February 17, 1970, in docket No. CP67-179.

Copies of the refund report are on file with the Commission and are available for public inspection. Comments or protests, with appropriate supporting data, should be filed with the Commission on or before May 8, 1973.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-8737 Filed 5-2-73;8:45 am]

[Docket No. CI73-698]

MALLARD EXPLORATION, INC., ET AL.

Notice of Application for Proclaimer

APRIL 26, 1973.

Take notice that on April 16, 1973, Mallard Exploration, Inc. (Operator), et al. (Applicant), 200 Wilco Building, Tex. 79701, filed in Docket No. CI73-698 an application pursuant to section 7(c) of the Natural Gas Act and § 2.75 of the Commission's general policy and interpretations (18 CFR 2.75) 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 Company (Southern) from the Big Escambia Creek Field, Escambia County, Ala., and for an order declaring that the transportation and sale of condensate and light liquid products to Southern, together with Applicant's facilities necessary to such operations, are not subject to the Commission's jurisdiction, all as more fully set forth in the application and petition which is on file with the Commission and open to public inspection.

Applicant proposes under the optional gas pricing procedure to sell natural gas to Southern from the Big Escambia Creek Field at an initial rate of 55 cents per million Btu at 14.65 p.s.i.a. under the provisions of a contract dated December 1, 1972. Said contract provides for 1 cent per million Btu price escalations each successive 2 years, for reimbursement to the seller for ⅞ of any new or increased taxes and for a contract term of 20 years. Applicant also requests pregranted abandonment authorization. Applicant expects monthly sales volumes of 550,000 Mcf of gas.

Applicant states that its contract with Southern was the result of arm's length negotiations and that the contract with its price provisions is competitive with offers from other potential buyers, including potential purchasers in the intrastate market. Applicant asserts that the contract price with adjustments is substantially lower than prices for baseload sales of liquefied natural gas or synthetic gas for which applications for authorization are pending or have been approved by the Commission. Applicant further asserts that its contract price is substantially lower than prices for peak shaving sales of LNG for which applications for authorization also are pending or have been approved by the Commission. Applicant alleges that it will incur substantial costs in removing sulfur from the natural gas prior to its delivery to Southern.

Applicant requests that the Commission issue an order declaring that the sale of liquid products and facilities necessary therefor in the Big Escambia Creek Field are not within the Commission's jurisdiction. Applicant states that it intends to construct a gas treatment plant in the field to treat the gas to remove sulfur, carbon dioxide, and liquid hydrocarbons. Applicant plans to remove the condensate from the gas stream and then pump it into storage tanks, after stabilization in the gas treating plant. By an option agreement dated December 1, 1972, Applicant has granted Southern an option to purchase both the condensate and light liquid products from this plant. Under this arrangement Applicant would deliver the condensate and light liquid products at Southern's liquid meters located immediately downstream from its storage tanks.

Applicant indicates that Southern, after taking delivery of both the condensate and light liquid products, would transport both commodities to its maximum utilization plant, which it proposes to construct in the Big Escambia Creek Field in the application pending in docket No. CP73-154. Applicant states that then the condensate and light liquid products would be converted into methane for delivery into Southern's interstate gas transmission system. Applicant asserts that the Commission does not have jurisdiction over the sale and the facilities necessary therefor since liquid hydrocarbons are not natural gas as that term is used in the Natural Gas Act.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 18, 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 the certificate 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.73-8738 Filed 5-2-73;8:45 am]

[Docket No. E-8130]

MIDDLE SOUTH SERVICES, INC.

Notice of Superseding Rate Schedule

APRIL 25, 1973.

Take notice that on April 16, 1973, Middle South Services, Inc. (Services), tendered for filing an agreement among Arkansas Power & Light Co., Arkansas-Missouri Power Co., Louisiana Power & Light Co., Mississippi Power & Light Co., New Orleans Public Service, Inc., and Services dated April 16, 1973. The proposed effective date is July 1, 1973. Services states that this agreement supersedes the following documents:

	Rate Schedule FPC No.
Arkansas Power & Light Co.	18, as supplemented.
Louisiana Power & Light Co.	5, as supplemented.
Mississippi Power & Light Co.	34, as supplemented.
Louisiana Power & Light Co.	12, as supplemented.
New Orleans Public Service, Inc.	4, as supplemented.
Arkansas Power & Light Co.	66, as supplemented.
Arkansas-Missouri Power Co.	37, as supplemented.

Services states that this agreement continues most of the principles in the previous agreements, and in addition it includes a section for the equalizing of transmission and the pricing for capacity equalization has been changed from a standard rate per kilowatt to the purchase of power and energy from the latest unit of the long company. Services estimates that the charges and receipts under the proposed rates for the 12 months ending June 30, 1974, will be $21,429,758 in charges for Arkansas Power & Light Co., $2,534,978 in charges for Arkansas-Missouri Power Co., $28,023,163 in receipts for Louisiana Power & Light Co., $4,760,276 in charges for Mississippi Power & Light Co., and $701,849 in receipts for New Orleans Public Service. Service further states that if § 35.13(b)(5)(i) is deemed applicable to this filing, it is respectfully requested that the Commission waive the requirement for filing a case-in-chief.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 10, 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 application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-8739 Filed 5-2-73;8:45 am]

[Docket No. CP73-264]

NORTHERN NATURAL GAS CO.

Notice of Application

APRIL 26, 1973.

Take notice that on April 5, 1973, Northern Natural Gas Co. (applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in docket No. CP73-264, an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon and remove 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 certain compressor facilities at its Andrews Compressor Station located in Andrews County, Tex., which has a total of 13,050 compressor horsepower. Applicant alleges that there has been a decline in raw gas volumes available at the Andrews Station resulting in a surplus of 6,800 compressor horsepower at the facility. Applicant proposes to abandon and remove two 1,800 hp units and one 1,350 hp unit from the station to be retired to storage. Applicant estimates that the cost of removal will be $40,000 to be financed from cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 18, 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.73-8740 Filed 5-2-73;8:45 am]

[Docket No. RP71-107; Phase 2]

NORTHERN NATURAL GAS CO.

Notice of Proposed Changes in Rates and Charges

APRIL 25, 1973.

Take notice that on January 22, 1973, Northern Natural Gas Co. (Northern) tendered for filing a request for authority to defer recording 0.18c/M ft^3 of gas purchased costs during the calendar year 1973, with such deferred costs to be recorded during the calendar year 1974, when the related additional revenues are to be collected under the annual PGA Clause. This filing relates to Northern's FPC Gas Tariff, Third Revised Volume No. 1, Purchased Gas Cost Adjustment. Northern states that this filing is the result of its discovery that subsequent to its first annual filing under its tariff PGA clause on October 27, 1972, it had inadvertently and incorrectly calculated the base average cost of purchased gas included in its February 1972 rate settlement in docket No. RP71-107, and embodied in its tariff PGA Clause. Northern estimates that as a result of this error it will fail to recover approximately $1,700,000 during 1973, an average of 0.20 and 0.18c/m ft^3 of sales and purchase volumes, respectively. Northern states that a copy of the filing has been mailed to each of Northern's jurisdictional gas utility 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, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). Parties who have already been granted intervention in this docket are not required to file petitions of intervention in the present filing. All petitions or protests should be filed on or before May 9, 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 application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-8741 Filed 5-2-73;8:45 am]

[Docket No. E-8147]

PACIFIC POWER & LIGHT CO.

Notice of Application

APRIL 26, 1973.

Take notice that on April 20, 1973, Pacific Power & Light Co. (Applicant), a corporation organized under the laws of the State of Maine and qualified to transact business in the States of Oregon, Wyoming, Washington, California, Montana and Idaho, with its principal business office at Portland, Oreg., filed an application with the Federal Power Commission, pursuant to section 204 of the Federal Power Act, seeking an order authorizing the issuance of 1,600,000 shares of its authorized but unissued common stock of the par value of $3.25 per share.

Proceeds from the issuance and sale of the common stock will be used to retire short-term notes and to finance in part, Applicant's 1973 construction program, presently estimated at $148,336,000.

Any person desiring to be heard or to make any protest with reference to said

application should, on or before May 15, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-8742 Filed 5-2-73;8:45 am]

[Docket No. CI73-688]

POST OAK OIL CO.

Notice of Application

APRIL 26, 1973.

Take notice that on April 9, 1973, Post Oak Oil Co. (Applicant), 2900 Liberty Tower, 100 North Broadway, Oklahoma City, Okla. 73102, filed in docket No. CI73-688 an application pursuant to section 7(c) of the Natural Gas Act and § 2.75 of the Commission's general policy and interpretations (18 CFR 2.75) for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Colorado Interstate Gas Co., a division of Colorado Interstate Corp. (Colorado), from acreage in Harper County, Okla., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes under the optional gas pricing procedure to sell natural gas to Colorado at an initial rate of 35 c/M ft^3 at 14.65 lb/in^2 a, subject to upward and downward British thermal unit adjustment, pursuant to the terms of a contract dated March 27, 1973. Said contract provides for annual price escalations of one-half cent per thousand cubic feet after January 1, 1977, for reimbursement to the seller for 75 percent of any new or increased taxes and for a contract term to extend for 20 years and as long thereafter as gas is produced. Applicant expects initial monthly deliveries of gas to be 3,000 M ft^3.

Applicant asserts that the instant price will encourage the commitment of more natural gas to the interstate market, thus lessening the worsening gap between natural gas supply and demand. Applicant alleges that in view of future gas demand and supply, in view of the fact that natural gas is the cleanest burning and least polluting of all fossil fuels, and in view of the cost of substitute or supplemental gas supplies of imported liquefied natural gas, propane, reformed hydrocarbons, gasified coal, and other fossil fuels, the instant proposal will result in a cheaper mix of energy supplies and represents a better alternative to the interstate consumer of fossil fuels.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 18, 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.73-8745 Filed 5-2-73;8:45 am]

[Project 2145]

PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY, WASH.

Notice of Application for Change in Land Rights

APRIL 25, 1973.

A shortened period of public notice is hereby given that application for a change in land rights was filed February 6, 1973, under the Federal Power Act (16 U.S.C. 791a-825r) by Public Utility District No. 1 of Chelan County, Wash. (Correspondence to: Mr. Howard C. Elmore, Manager, Public Utility District No. 1 of Chelan County, P.O. Box 1231, Wenatchee, Wash. 98801), licensee for Rocky Reach Project No. 2145 which is located on the Columbia River north of the city of Wenatchee and near the towns of Chelan, Azwell, and Entiat in Chelan County, Wash., and the town of Orondo in Douglas County, Wash.

Applicant seeks Commission approval of its proposal to grant an easement to the Entiat Irrigation District, a municipal corporation of the State of Washington, for a pumphouse and pipeline to be located in the town of Entiat on lots 5 and 6, block 11 and upon part of the former right-of-way of the Great Northern Railway Co., and across lots 3, 4, 5, and 19, block 12 lying southeasterly of the right-of-way of Burlington Northern Railway.

Entiat Irrigation District proposes to install pumps and to withdraw irrigation water from the reservoir of the Rocky Reach project into a pressure system instead of using the present gravity system. The irrigation district further proposes to build a pumphouse faced with stone and to bury all pipelines.

It appears that an emergency situation exists in that the present gravity system would not afford adequate irrigation. Thus the applicant requests Commission authorization as soon as possible so that the new system may be in operation in time for this irrigation season. Accordingly a shortened period of notice as prescribed herein is reasonable and consistent with the public interest.

Any person desiring to be heard or to make protest with reference to said application should on or before May 4, 1973, file with the Federal Power Commission, Washington, D.C. 20426, protests or petitions to intervene in accordance with 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 a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-8743 Filed 5-2-73;8:45 am]

[Dockets Nos. CP73-271, CP73-272, and CP73-273]

SOUTHERN ENERGY CO., ET AL.

Notice of Application

APRIL 27, 1973.

Take notice that on April 6, 1973, Southern Energy Co. (Southern Energy), P.O. Box 2563, Birmingham, Ala. 35202, filed in dockets Nos. CP73-271 and CP73-272, applications pursuant to sections 3 and 7(c) of the Natural Gas Act, respectively, for an order authorizing the importation of liquefied natural gas (LNG) and for a certificate of public convenience and necessity authorizing the construction and operation of facilities on Elba Island, in Chatham County, Ga., for the storage and regasification of LNG and the sale of the vaporous gas to Southern Natural Gas Co. (Southern). Take further notice that on April 6, 1973, Southern, P.O. Box 2563, Birmingham, Ala. 35202, in docket No. CP73-273, filed 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 to transport regasified

LNG, purchased from Southern Energy, to Southern's main transmission system. All proposals are more fully set forth in the applications which are on file with the Commission and open to public inspection.

Southern Energy in docket No. CP73-271 seeks authorization to import approximately 41 trillion Btu annually of LNG it has contracted to purchase from El Paso Algeria Corp. (El Paso Algeria), or the equivalent of approximately 100,000 M ft³ of vaporous gas daily, for 25 years after the initial buildup period. Southern Energy indicates that the LNG will be produced in Algeria by Societe Nationale SONATRACH (Sonatrach) and will be purchased by El Paso Algeria from Sonatrach at a point of unloading in Arzew, Algeria. Southern Energy states that El Paso Algeria will sell the LNG on the high seas to Southern Energy at a point on the 50th meridian, west longitude, aboard LNG tankers en route to the United States to be delivered to the facilities, which are proposed to be expanded herein, and are owned, and operated by Southern in Chatham County, Ga. Southern Energy indicates that the quantity of LNG to be delivered to it is 10 percent of the total quantity of approximately 410 trillion Btu of LNG, the equivalent of approximately 1 million M ft³ of vaporous gas daily, which El Paso Algeria will purchase from Sonatrach. Southern Energy indicates that it will pay approximately $1.09 per million Btu for the LNG delivered by El Paso Algeria.

Southern Energy in docket No. CP73-272 seeks certificate authorization to construct and operate facilities on Elba Island, Ga., in addition to those authorized in docket No. CP71-264, for the storage and regasification of LNG and the sale of such regasified LNG to Southern. The proposed facilities consist of one storage tank of 400,000 bbl capacity, two additional LNG transfer pumps, one LNG vaporizer, and other minor associated equipment to be constructed at a cost of $8,969,000. Southern Energy expects to finance the project initially from bank loans which will be repaid from cash, current operations, and permanent financing. Southern Energy alleges that these facilities will allow it to receive, store, regasify, and deliver to Southern the equivalent of approximately 41,062,500 million Btu of the LNG it will annually purchase from El Paso Algeria in addition to the annual quantity of 143,718,750 million Btu which Southern Energy is authorized to import in docket No. CP71-151.

In conjunction with the applications of Southern Energy, Southern in docket No. CP73-273 seeks authorization to increase the diameter of the 105-mile loop pipeline to 24 inches in lieu of the 20-inch pipeline certificated in docket No. CP71-276. Southern states that the estimated cost of the 20-inch pipeline is $12,233,890 and estimates that the 24-inch loop pipeline will cost $15,651,280, or an increase in cost of $3,417,390. Southern contemplates that construction will begin in 1975 and will be completed in 12 months with costs to be financed, initially from cash from current operations and from bank loans, which will be repaid from cash from current operations, and from permanent financing.

Southern proposes to make the regasified LNG to be purchased from Southern Energy available to its customers on an optical incremental/rolled-in basis, as desired by all of Southern's customers. Southern anticipates that the cost impact of LNG upon its average pipeline sales to be 3.2 cents per million Btu.

Southern and Southern Energy both allege that the public convenience and necessity will be served with the authorization of their proposals, since the importation of this quantity allegedly will be used to alleviate the shortages in Southern's market area.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 21, 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, hearings will be held without further notice before the Commission on the certificate applications if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matters finds that grants of the certificates 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 applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-8722 Filed 5-2-73;8:45 am]

[Docket No. E-8129]

SOUTHWESTERN PUBLIC SERVICE CO.

Notice of Superseding Rate Schedule

APRIL 25, 1973.

Take notice that on April 16, 1973, Southwestern Public Service Co. (Southwestern) tendered for filing new contracts which supersede and cancel Rita Blanca Electric Cooperative, Inc., rate schedule FPC No. 48 and North Plains Electric Cooperative, Inc., rate schedule FPC No. 49. According to Southwestern its initial total commitment shall be a maximum of 13,500 kWA to Rita Blanca Electric Cooperative, Inc. and a maximum of 21,050 kWA to North Plains Electric Cooperative. Southwestern requests that the Commission accept this filing to be effective on June 13, 1973, for Rita Blanca Electric Cooperative, Inc., and on June 24, 1973, for North Plains Electric Cooperative, Inc.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with sections 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 May 10, 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 application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-8744 Filed 5-2-73;8:45 am]

[Dockets Nos. CP73-267 and CP73-269, et al.]

TRANSCO ENERGY CO., ET AL.

Notice of Applications

APRIL 27, 1973.

Take notice that on April 6, 1973, Transco Energy Co. (Energy), P.O. Box 1396, Houston, Tex. 77001, filed in dockets Nos. CP73-267 and CP73-269 applications pursuant to sections 3 and 7(c) of the Natural Gas Act, respectively, for an order authorizing the importation of liquefied natural gas (LNG) and for a certificate of public convenience and necessity authorizing the sale for resale of natural gas to Transcontinental Gas Pipe Line Corp. (Transco). Take further notice that on April 6, 1973, Transco Terminal Co. (Terminal), P.O. Box 1396, Houston, Tex. 77001, filed in docket No. CP73-268, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and the operation of an LNG terminal facility and service to Energy and El Paso Eastern Co. (Eastern). Take further notice that on April 6, 1973, Transco filed in docket No. CP73-260 an application pursuant to section 7(c) of the Natural Gas Act authorizing the construction and operation of certain facilities and an exchange and transportation service for Eastern. All proposals are more fully set forth in the applications which are on file with the Commission and open to public inspection.

Energy in docket No. CP73-267 seeks authorization to import approximately 154 trillion Btu annually of LNG or the

equivalent of approximately 373,260 M ft³ of vaporous gas daily, it has contracted to buy from El Paso Algeria Corp. (El Paso Algeria), for 25 years, beginning, according to present estimates, in 1978. Energy indicates that the LNG will be produced in Algeria by Societe Nationale SONATRACH (Sonatrach) and will be purchased at the loading port by El Paso Algeria, which will sell the LNG to Energy on the high seas at a point on the 50th meridian, west longitude, aboard LNG tankers en route to the United States. Energy states that the LNG will be delivered to facilities to be constructed, owned and operated by Terminal in Gloucester County, N.J.

Energy esimates that the cost of the LNG sold to it by El Paso Algeria will be approximately $1.03 per million Btu delivered.

Energy indicates that the natural gas to be liquefied by Sonatrach will be produced, gathered and transported to its liquefaction plant from the Hassi R'Mel Gas Field and that Sonatrach's existing and future recoverable gas reserves as of January 1, 1973, are estimated to be 85 billion M ft³.

Energy in docket No. CP73–269 seeks certificate authorization for the sale for resale of the LNG it is seeking authorization to import in docket No. CP73–267. Energy states that Terminal will unload, store and vaporize the LNG and deliver approximately 373,260 M ft³ of vaporous gas per day to Transco for the account of Energy. Energy states further that its sale of gas to Transco will be on a cost of service basis, estimated at $1.3775 per M ft³ for the first 2 years of operation.

Additionally, Energy states that it understands other interdependent applications are to be filed pursuant to sections 3 and 7(c) of the Natural Gas Act by Consolidated System LNG Co., El Paso Eastern, Southern Energy Co., and Southern Natural Gas Co., seeking Commission approval to import into and market in the United States daily approximately 1 million M ft³ of vaporous gas equivalent to be purchased from El Paso Algeria.

Finally, Energy indicates that it will not be required to install, operate, or maintain any facilities to effectuate its proposals in dockets Nos. CP73–267 and CP73–269.

In conjunction with the applications of Energy, Terminal in docket No. CP73–268 seeks authorization necessary to construct and operate an LNG terminal in Gloucester County, N.J., which will provide unloading storage, and vaporization service for the LNG which Energy in docket No. CP73–267 and El Paso Eastern in docket No. CP73–258 have arranged to import. Terminal states that the facility will have four components: A marine docking and unloading area, a storage tank area, a utility area, and a process area; and the facility will have a daily output capacity of 746,520 M ft³ of vaporous natural gas, one-half to be delivered as sale volumes to Transco for the account of Energy and one-half to be delivered on an exchange and transportation basis with Transco for the account of El Paso Eastern.

The overall capital cost of the facility is estimated by Terminal to be $206,734,000, to be financed by the sale of $135 million, of bonds and by selling to Energy $72 million of Terminal's common equity. Terminal indicates that the rate for the service rendered to Energy and El Paso Eastern is a monthly charge adjustable annually, and intended to recover Terminal's cost of service and determined by agreements more fully explained in this application.

Transco in docket No. CP73–270 seeks authorization to construct and operate approximately 22.74 miles of 36-inch pipeline loop on its Marcus Hook-Woodbury line in Pennsylvania and New Jersey, together with a meter station to be located at the tailgate of an LNG terminal facility on the Delaware River in Gloucester County, N.J., to be constructed by Terminal, and a meter station to be located at Compressor Station No. 20 in Refugio County, Tex. Transco states that these new facilities will enable it to handle approximately 746,520 M ft³ daily of the vaporized LNG. Transco states further that it will purchase from Energy approximately 373,260 M ft³ of gas daily to be utilized as system gas supply to serve presently authorized firm market requirements. In docket No. CP 73–270 Transco also seeks authorization to receive for the account of El Paso Eastern and to deliver another 373,260 M ft³ daily to it on an exchange and transportation basis. Transco states that El Paso Eastern will pay it 9.23 cents per million Btu delivered.

According to Transco the proposed facilities will cost approximately $19 million, to be financed through short-term borrowings and cash on hand, with long-term financing to be accomplished at a later date.

Transco states that it requests permission to recover in its rate the costs associated with the purchase of this new supply by including Energy within the definition of supplier as set forth in the purchase gas adjustment provision of Transco's presently effective FPC gas tariff.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 21, 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 these applications if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that grants of the certificates are required by the public convenience and necessity. If petitions for leave to intervene are timely filed, or if the Commission on its own motion believes that formal hearings are required, further notices of such hearings will be duly given.

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

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-8723 Filed 5-2-73;8:45 am]

[Dockets Nos. AR61-1, et al., G-4771, et al., RP67-8]

TRANSWESTERN PIPELINE CO.

Notice of Filing Proposed Refund Plan

APRIL 26, 1973.

Take notice that Transwestern Pipeline Co. (Transwestern) on October 10, 1972, tendered for filing a plan to refund $601,218.52 comprised of $495,393.57 of refunds to jurisdictional less $34,747.47 retained from such customers plus $112,178.05 of interest. The refund plan purports to flow through the applicable portion of refunds received from Transwestern's Permian Basin suppliers pursuant to the August 9, 1968, and November 26, 1968, orders in dockets Nos. AR61-1, et al. The disposition of refunds from the Permian Basin suppliers is to be made pursuant to Transwestern's settlement in docket No. RP67-8.

The refunds to be disbursed by the above-identified plan are applicable to the period from June 1, 1963, through July 31, 1968.

Transwestern's proposed refund is on file with the Commission and is available for public inspection. Comments or protests, with appropriate supporting data, should be filed with the Commission on or before May 8, 1973.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-8748 Filed 5-2-73;8:45 am]

[Docket No. RP73-90]

UNION LIGHT, HEAT & POWER CO.

Order Accepting for Filing and Suspending Proposed Tariff Changes, Setting the Matter for Hearing, and Permitting Intervention

APRIL 27, 1973.

On March 15, 1973, Union Light, Heat & Power Co. (Union) tendered for filing proposed changes in its FPC gas tariff, original volume No. 3. The revisions are first revised sheets Nos. 4 and 5. The proposed changes would increase by $86,974 revenues from jurisdictional sales and service of liquefied natural gas (LNG) based on actual sales for the 12-month period ending December 31, 1972. The annual jurisdictional revenue increase computed at the proposed tariff rates for

the same period, when normalized for anticipated operations, amounts to $284,-901, according to Union.

The company states in its transmittal letter that the rate increase is designed to secure sufficient jurisdictional revenue to recoup Union's cost of service for its LNG operations. According to the company, this has been made necessary as a result of reduced actual wholesale sales volumes and increased per unit production expenses, experienced during the test period, from those volumes and expenses originally anticipated in Union's original rate filing. Union also requests that it be allowed to earn a rate of return of 9 percent, proposes to raise its present monthly class rates which averaged 10.11 cents per gallon of LNG in 1972 to 29.78 cents per gallon, and changes its rates structure from four rates to a single commodity charge. Union further advises that it has been unable to file for increased rates due to a 2-year moratorium required by the Commission's initial authorization of the LNG service by order of November 27, 1970, in docket No. CP70-212.

Union has requested that suspension be limited to no more than 1 day and requests an effective date of May 1, 1973. The filing was notice on March 22, 1973, with petitions to intervene and protests due on or before April 13, 1973. The only petition to intervene was received from the Cincinnati Gas & Electric Co. (Cincinnati) on April 10, 1973. Cincinnati is the parent company of Union and expressed the desire to intervene in the event that a hearing were ordered by the Commission.

Our review of Union's filing indicates that it raises certain issues which may require development in an evidentiary hearing.

The Commission finds

(1) The rates proposed by Union have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful.

(2) It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Union's FPC gas tariff as proposed to be amended in this docket, and that the revised tariff sheets filed herein be suspended, and the use thereof deferred as hereinafter ordered.

(3) Good cause exists to permit the Cincinnati Gas & Electric Co. to intervene in the aforementioned proceeding.

The Commission orders

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, and the Commission's rules and regulations, a public hearing shall be held, commencing with a prehearing conference on June 27, 1973, at 10 a.m., e.d.t., in a hearing room of the Federal Power Commission, Washington, D.C. 20426, concerning the lawfulness of the rates, charges, classifications, and services contained in Union's FPC gas tariff, as proposed to be amended herein.

(B) Pending such hearing and decision thereon, Union's revised tariff sheets as hereinbefore designated are suspended and the use thereof deferred until May 2, 1973, and until such time as they are made effective in the manner provided in the Natural Gas Act.

(C) At the prehearing conference on June 27, 1973, the company's prepared testimony (statement D) together with its entire rate filing shall be admitted into the record subject to appropriate motions, if any, by parties to the proceeding. All parties will be expected to come to this conference prepared to effectuate the provisions of §§ 1.18 and 2.59 of the Commission's rules of practice and procedure.

(D) On or before June 20, 1973, the Commission staff shall serve its prepared testimony and exhibits. Any prepared testimony and exhibits of the intervenors shall be served on or before July 12, 1973. Any rebuttal evidence by Union shall be served on or before August 1, 1973. Cross-examination of the evidence filed shall commence at 10 a.m., e.d.t., on August 14, 1973, in a hearing room of the Federal Power Commission.

(E) A presiding administrative law judge to be designated by the chief administrative law judge for that purpose (see delegation of authority, 18 CFR 3.5 (d)) shall preside at the hearing initiated by this order, and shall conduct such hearing in accordance with the Natural Gas Act, the Commission's rules and regulations, and the terms of this order.

(F) The Cincinnati Gas & Electric Co. shall be permitted to intervene in the aforementioned proceeding, subject to the Commission's rules and regulations; *Provided, however,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggreived by any orders entered in this proceeding and *Provided, further,* That the participation of such intervenor shall be limited to matters affecting rights and interests specifically set forth in its petition to intervene.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

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

[FR Doc.73-8746 Filed 5-2-73;8:45 am]

[Docket No. E-7643]

UPPER PENINSULA POWER CO.

Notice of Application

APRIL 26, 1973.

Take notice that on April 16, 1973, Upper Peninsula Power Co. (Applicant), filed a supplement and amendment to its application in docket No. E-7643 with the Federal Power Commission seeking authority pursuant to section 204 of the Federal Power Act to issue unsecured promissory notes not to exceed $13,500,-000 face value at any one time outstanding.

The Applicant is incorporated under the laws of the State of Michigan with its principal business office at Houghton, Mich., and is engaged in the electric utility business in a 4,460-square-mile area in the Upper Peninsula of Michigan with a population of approximately 140,000.

The Applicant proposes to issue unsecured promissory notes, payable to such bank or banks from which the Applicant may borrow funds for periods not exceeding 12 months from the date of original issue or renewal thereof, as the case may be, such notes, issued either originally or upon renewal from time to time, to have maturity dates not later than June 30, 1975.

The interest rate on the notes to be issued to commercial banks not for resale to the public will be at a rate not exceeding one-half of 1 percent over the floating prime rate in effect from time to time, meaning by "prime rate" the lowest rate at which the banks to whom the notes are payable are then making short-term commercial loans to depositors.

The proceeds from the sale of the notes will be used, pending permanent financing, to refinance short-term notes previously issued and to finance a portion of the Applicant's construction program which will total approximately $7,285,100 in 1973.

Any person desiring to be heard or to make any protest with reference to the application should, on or before May 15, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-8747 Filed 5-2-73;8:45 am]

FEDERAL RESERVE SYSTEM

BANCOHIO CORP.

Acquisition of Bank

BancOhio Corp., Columbus, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The Imperial State Bank, Vandalia, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 22, 1973.

Board of Governors of the Federal Reserve System, April 25, 1973.

[SEAL] CHESTER B. FELDBERG,
Assistant Secretary of the Board.

[FR Doc.73-8622 Filed 5-2-73;8:45 am]

BANCSHARES, INC.

Formation of One-Bank Holding Company

Bancshares, Inc., Houston, Tex., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of MacGregor Park National Bank, Houston, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit his views in writing to the Reserve bank to be received not later than May 16, 1973.

Board of Governors of the Federal Reserve System, April 25, 1973.

[SEAL] CHESTER B. FELDBERG,
Assistant Secretary of the Board.

[FR Doc.73-8621 Filed 5-2-73;8:45 am]

CONTINENTAL BANKSYSTEM, INC.

Formation of Bank Holding Company

Continental Banksystem, Inc., St. Paul, Minn., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of:

(1) 60 percent or more of the voting shares of St. Anthony Park State Bank, St. Paul, Minn.;

(2) 53.5 percent or more of the voting shares of Roseville State Bank, Roseville, Minn.;

(3) 59 percent or more of the voting shares of Peoples National Bank, Mora, Minn.; and

(4) 70 percent or more of the voting shares of Citizens State Bank of Montgomery, Montgomery Minn.

The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 23, 1973.

Board of Governors of the Federal Reserve System, April 26, 1973.

[SEAL] CHESTER B. FELDBERG,
Assistant Secretary of the Board.

[FR Doc.73-8623 Filed 5-2-73;8:45 am]

FIRST FLORIDA BANCORPORATION

Acquisition of Bank

First Florida Bancorporation, Tampa, Fla., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of Peoples Bank in North Fort Myers, North Fort Myers, Fla. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 23, 1973.

Board of Governors of the Federal Reserve System, April 26, 1973.

[SEAL] CHESTER B. FELDBERG,
Assistant Secretary of the Board.

[FR Doc.73-8624 Filed 5-2-73;8:45 am]

FIRST BANCGROUP-ALABAMA, INC.

Formation of Bank Holding Company

First Bancgroup-Alabama, Inc., Mobile, Ala., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successors by merger to The First National Bank of Mobile, Mobile, Ala., and The Henderson National Bank of Huntsville, Huntsville, Ala. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 23, 1973.

Board of Governors of the Federal Reserve System, April 26, 1973.

[SEAL] CHESTER B. FELDBERG,
Assistant Secretary of the Board.

[FR Doc.73-8625 Filed 5-2-73;8:45 am]

FIRST SECURITY NATIONAL CORP.

Acquisition of Bank

First Security National Corp., Beaumont, Tex., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of the successor by merger to Village State Bank, Beaumont, Tex. (Applicant presently owns 24 percent of the voting shares of Village State Bank, and seeks to acquire the remaining 76 percent of its voting shares.) The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

First Security National Corporation is also engaged in the following nonbank activities: Mortgage banking for both commercial and residential properties through a home office in Beaumont and a branch office in Houston, Tex. In addition to the factors considered under section 3 of the act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the act (12 U.S.C. 1843).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 23, 1973.

Board of Governors of the Federal Reserve System, April 26, 1973.

[SEAL] CHESTER B. FELDBERG,
Assistant Secretary of the Board.

[FR Doc.73-8626 Filed 5-2-73;8:45 am]

MERCANTILE BANCORPORATION INC.

Acquisition of Bank

Mercantile Bancorporation Inc., St. Louis, Mo., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Mercantile National Bank of St. Louis County, St. Louis County, Mo., a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 23, 1973.

Board of Governors of the Federal Reserve System, April 26, 1973.

[SEAL] CHESTER B. FELDBERG,
Assistant Secretary of the Board.

[FR Doc.73-8627 Filed 5-2-73;8:45 am]

TEXAS COMMERCE BANCSHARES, INC.

Order Approving Acquisition of Banks

Texas Commerce Bancshares, Inc., Houston, Tex., a bank holding company within the meaning of the Bank Holding Company Act, has applied in separate applications for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Inwood Commerce Bank, N.A. (Inwood Bank) and 100 percent of the voting shares (les directors' qualifying shares) of Kingwood Commerce Bank, N.A. (Kingwood Bank), proposed new banks both located in Houston, Tex.

Notice of the applications, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the act. The time for filing comments and views has expired, and the Board has considered the applications and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls 12 banks located in Houston, Beaumont, San Angelo, Lubbock, and Odessa, Tex., with aggregate deposits of approximately $1.5 billion, representing 5.0 percent of total deposits of commercial banks in the State. Applicant, the fourth largest banking organization in Texas, is the second largest banking organization in the Houston banking market with seven subsidiary banks controlling approximately 16.5 percent of deposits of commercial banks in that market. In addition, applicant holds interests of less than 25 percent in three suburban banks located in the Houston area. These three banks hold aggregate deposits of approximately $80 million, representing 1.1 percent of the total deposits of commercial banks in the Houston area. (All banking data are as of June 30, 1972, and reflect holding company formations and acquisitions approved through March 10, 1973.) Acquisition of Inwood and Kingwood banks, will have no immediate affect on applicant's share of deposits of commercial banks in the State.

Inwood Bank is proposed to be located in northwest Houston, immediately adjacent to the Houston city limits, approximately 20 miles northwest of applicant's lead bank in downtown Houston. Applicant's two subsidiary banks located closest to the proposed site of Inwood Bank are approximately 11 miles east and 11 miles northeast, respectively, from that bank's proposed location.

Kingwood Bank is proposed to be located in northwest Harris County in the "new town" community of Kingwood, approximately 22 miles northeast of downtown Houston. Applicant's subsidiary bank located closest to the proposed site of Kingwood Bank is located approximately 20 miles southeast of that bank's proposed location.

Both Inwood and Kingwood banks are proposed new banks and, therefore, no existing competition between these banks and any of applicant's subsidiary banks would be eliminated as a result of consummation of the proposals herein. Applicant's share of banking resources in the Houston area would not be increased as a result of consummation of the proposed acquisitions. Expansion de novo by applicant into the suburban markets of Houston to be served by these proposed new banks should eliminate neither meaningful future competition among commercial banks nor have any signficant effect on the future concentration of bank resources in the Houston area. The areas to be served by applicant through Inwood and Kingwood banks are undergoing large scale development and will in the near future include numerous commercial facilities and residential developments. De novo entry by applicant into these areas will provide additional banking alternatives and should stimulate competition among those financial institutions already located in these areas. With respect to the Kingwood area, operation of Kingwood Bank will provide a needed more convenient source of banking services to residents of the Kingwood and Forest Grove communities. In view of the rapidly growing character of the areas proposed to be served by Inwood and Kingwood banks, prospects appear favorable for entry by additional banking organizations into these areas and applicant's entry de novo should not serve to foreclose the opportunity for entry in these areas by other banking organizations. The Board concludes that consummation of the proposals herein will not have an adverse effect on competition in any relevant area and may, in fact, serve to stimulate competition in the areas proposed to be served.

The financial and managerial resources of applicant and its subsidiary banks are regarded as satisfactory and prospects for the group appear favorable. Inwood and Kingwood banks have no financial or operating history. However, as subsidiaries of applicant, their prospects appear favorable. Banking factors are consistent with approval of these applications. The expected rapid growth of the areas in which Inwood and Kingwood banks are to be located indicates the need for additional banking alternatives. At the present time, residents of the Kingwood community must travel approximately 4 miles south to the nearest bank. Establishment of both Inwood and Kingwood banks will provide residents in their respective communities a convenient source of a wide variety of banking services offered through applicant. Considerations relating to the convenience and needs of the residents of the areas proposed to be served by Inwood and Kingwood banks are consistent with approval of these applications.

It is the Board's judgment that the proposed acquisitions would be in the public interest and that the applications should be approved.

On the basis of the record, the applications are approved for the reasons summarized above. The transactions shall not be consummated: (a) Before the 30th calendar day following the effective date of this order, or (b) later than 3 months after that date, and (c) Inwood Commerce Bank, N.A. and Kingwood Commerce Bank, N.A., both of Houston, Tex., shall be opened for business not later than 6 months after the effective date of this order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Board of Governors,[1] effective April 26, 1973.

[SEAL] CHESTER B. FELDBERG,
Assistant Secretary of the Board.

[FR Doc.73-8628 Filed 5-2-73;8:45 am]

VIRGINIA NATIONAL BANCSHARES, INC.

Acquisition of Bank

Virginia National Bancshares, Inc., Norfolk, Va., has applied for the Board's approval under section (a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Virginia National Bank/Henry County, Henry County, Va., a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 16, 1973.

Board of Governors of the Federal Reserve System, April 25, 1973.

[SEAL] CHESTER B. FELDBERG,
Assistant Secretary of the Board.

[FR Doc.73-8629 Filed 5-2-73;8:45 am]

FOREIGN-TRADE ZONES BOARD

[Docket No. 1-73]

EWA, OAHU, HAWAII

Notice of Filing and Invitation for Written Comments Regarding Proposal for Synthetic Natural Gas Plant

Notice is hereby given that the State of Hawaii, grantee of Foreign Trade Zone No. 9 and Subzone No. 9-A, has, through its department of planning and economic development, applied to the Foreign-Trade Zones Board (the Board) pursuant to the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400, particularly 400.815), for approval of a proposal by Gasco, Inc., formerly Honolulu Gas Co. (Gasco) a wholly owned subsidiary of Pacific Resources, Inc. (Pacific) to construct and operate within Subzone 9-A a synthetic natural gas (SNG) plant that would cover some

[1] Voting for this action: Vice Chairman Robertson and Governors Daane, Brimmer, Sheehan, and Bucher. Absent and not voting: Chairman Burns and Governor Mitchell.

3.7 acres. The subzone consists of an oil refinery facility of some 110 acres on the Barbers Point industrial parksite located 22 miles west of Honolulu at Ewa and was approved by the Board on April 20, 1970 (Board order 82, 35 FR 6672). Pacific is also the parent corporation of Hawaiian Independent Refinery, Inc. (Hiri) the owner-operator of the oil refinery presently operating within the subzone.

The planned 150,000 therm-per-day plant will utilize the Lurgi process in manufacturing SNG primarily from naphtha feedstocks supplied from the subzone oil refinery. In a transmittal letter accompanying the original subzone application the State of Hawaii indicated the possibility of a future proposal for a SNG plant. By having the SNG operation within the subzone Gasco would benefit because SNG, the product that would be entered into U.S. Customs territory, is both a nondutiable product and one that is exempt from license fees under the revised oil import program.

Gasco, a public utility, presently operates a gas manufacturing plant in downtown Honolulu using heavy oils for feedstock and has distribution facilities throughout the State of Hawaii. The SNG plant would replace the existing plant, which would remain available for emergency use, and is designed to improve the operation from the standpoint of land use, environmental impact, and cost to the consumer.

Copies of the State's application, which was formally filed on April 17, 1973, will be available for public inspection at the following locations until June 4, 1973:

Office of the Executive Secretary, Foreign-Trade Zones Board, room 2203, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Office of the District Director, Bureau of Customs, 228 Federal Building, Honolulu, Hawaii 96806.

The application is supplemented by a draft environmental impact statement (EIS) prepared pursuant to the requirements of the National Environmental Policy Act of 1969 (Public Law 91–190) (NEPA), copies of which were transmitted to the Council on Environmental Quality (CEQ) on April 16, 1973, as well as to other Federal and State agencies, including the Environmental Protection Agency and the Hawaii Department of Planning and Economic Development.

The Foreign-Trade Zones Board invites comments in writing concerning any aspect of the proposal from interested parties, including Federal and other public agencies, during the period described above when the application will be available for public inspection. Submissions must be postmarked as of the closing date and should be mailed to the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 2203, Washington, D.C. 20230. An original and 12 copies are required.

Dated April 30, 1973.

JOHN J. DAPONTE, Jr.
Executive Secretary,
Foreign-Trade Zones Board.

[FR Doc.73-8787 Filed 5-2-73;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

AMERICAN STATISTICAL ASSOCIATION ADVISORY COMMITTEE ON STATISTICAL POLICY

Notice of Public Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the American Statistical Association Advisory Committee on Statistical Policy to be held in room 9104, New Executive Office Building, 726 Jackson Place NW., Washington, D.C., on May 8 at 9:30 a.m.

The purpose of the meeting is to hear remarks from the Chief of the Statistical Policy Division on recent actions which affect the Federal statistical system and to receive the Committee's counsel on studies to improve selected areas of statistics, on maintaining the integrity of the Federal statistical system, and on developing statistics to measure program effectiveness. The meeting will be open to public observations and participation.

Anyone wishing to participate should contact the Chief, Statistical Policy Division, room 10202B, New Executive Office Building, Washington, D.C. 20502, telephone (202) 395–3730.

VELMA N. BALDWIN,
Assistant to the Director
for Administration.

[FR Doc.73-8887 Filed 5-2-73;10:26 am]

OFFICE OF EMERGENCY PREPAREDNESS

ARKANSAS

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in me by the President under Executive Order 11575 of December 31, 1970; and by virtue of the act of December 31, 1970, entitled "Disaster Relief Act of 1970" (84 Stat. 1744), as amended by Public Law 92–209 (85 Stat. 742); notice is hereby given that on April 27, 1973, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Arkansas resulting from severe storms and flooding beginning on or about April 1, 1973, are of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 91–606. I therefore declare that such a major disaster exists in the State of Arkansas. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11575 to administer the Disaster Relief Act of 1970 (Public Law 91–606, as amended), I hereby appoint Mr. George E. Hastings, Regional Director, OEP Region 6, to act as the Federal Coordinating Officer to perform the duties specified by section 201 of that act for this disaster.

I do hereby determine the following areas in the State of Arkansas to have been adversely affected by this declared major disaster.

The Counties of:

Arkansas	Jackson
Boone	Lee
Clark	Monroe
Greene	Phillips
Independence	Pulaski

Dated April 27, 1973.

DARRELL M. TRENT,
Acting Director,
Office of Emergency Preparedness.

[FR Doc.73-8680 Filed 5-2-73;8:45 am]

ILLINOIS

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in me by the President under Executive Order 11575 of December 31, 1970; and by virtue of the act of December 31, 1970, entitled "Disaster Relief Act of 1970" (84 Stat. 1744), as amended by Public Law 92–209 (85 Stat. 742); notice is hereby given that on April 26, 1973, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Illinois resulting from severe storms and flooding beginning on or about March 1, 1973, are of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 91–606. I therefore declare that such a major disaster exists in the State of Illinois. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11575 to administer the Disaster Relief Act of 1970 (Public Law 91–606, as amended), I hereby appoint Mr. Robert E. Connor, Regional Director, OEP Region 5, to act as the Federal Coordinating Officer to perform the duties specified by section 201 of that act for this disaster.

I do hereby determine the following areas in the State of Illinois to have been adversely affected by this declared major disaster:

The counties of:

Adams	Kendall
Alexander	Lake
Boone	McHenry
Brown	Madison
Calhoun	Massac
Carroll	Mercer
Cass	Monroe
Cook	Ogle
Franklin	Pike
Fulton	Randolph
Greene	Rock Island
Hancock	St. Clair
Henderson	Scott
Jackson	Union
Jersey	Whiteside
Jo Daviess	Winnebago
Kane	

Dated April 27, 1973.

DARRELL M. TRENT,
Acting Director,
Office of Emergency Preparedness.

[FR Doc.73-8681 Filed 5-2-73;8:45 am]

LOUISIANA

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in me by the President under Executive Order 11575 of December 31, 1970; and by virtue of the act of December 31, 1970, entitled "Disaster Relief Act of 1970" (84 Stat. 1744), as amended by Public Law 92-209 (85 Stat. 742); notice is hereby given that on April 27, 1973, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Louisiana resulting from severe storms and flooding beginning on or about March 24, 1973, are of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 91-606. I therefore declare that such a major disaster exists in the State of Louisiana. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11575 to administer the Disaster Relief Act of 1970 (Public Law 91-606, as amended), I hereby appoint Mr. George E. Hastings, Regional Director, OEP region 6, to act as the Federal Coordinating Officer to perform the duties specified by section 201 of that act for this disaster.

I do hereby determine the following areas in the State of Louisiana to have been adversely affected by this declared major disaster.

The parishes of:

Ascension	La Salle
Assumption	Pointe Coupee
Avoyelles	Rapides
Catahoula	St. Charles
Concordia	St. John the Baptist
East Carroll	St. Martin
Grant	St. Mary
Iberville	St. Tammany
Lafourche	

Dated April 27, 1973.

DARRELL M. TRENT,
Acting Director,
Office of Emergency Preparedness.

[FR Doc.73-8682 Filed 5-2-73;8:45 am]

MISSOURI

Amendment to Notice of Major Disaster

"Notice of Major Disaster" for the State of Missouri, dated April 20, 1973, and published April 26, 1973 (38 FR 10334), is hereby amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 19, 1973:

The counties of:

Adair	Dallas
Bates	Douglas
Bollinger	Henry
Boone	Jackson
Camden	Jasper
Carroll	Laclede
Cass	Lafayette
Chariton	Lawrence
Clark	Lewis
Dade	Livingston
McDonald	Putnam
Macon	Ray
Maries	Reynolds
Mercer	St. Clair
Moniteau	Saline
Montgomery	Shelby
Morgan	Stone
Newton	Sullivan
Osage	Warren
Ozark	Wayne
Polk	Webster
Pulaski	

Dated April 27, 1973.

DARRELL M. TRENT,
Acting Director,
Office of Emergency Preparedness.

[FR Doc.73-8683 Filed 5-2-73;8:45 am]

TEXAS

Amendment to Notice of Major Disaster

"Notice of Major Disaster" for the State of Texas, dated March 15, 1973, and published March 21, 1973 (38 FR 7423), is hereby amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 12, 1973:

The counties of:

Limestone	Navarro
McLennan	

DARREL M. TRENT,
Acting Director,
Office of Emergency Preparedness.

[FR Doc.73-8684 Filed 5-2-73;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 73-38]

POST VIKING MARS SCIENCE ADVISORY COMMITTEE

Notice of Date and Place of Meeting

The NASA Post Viking Mars Science Advisory Committee will meet on May 11-12, 1973, at the headquarters of the National Aeronautics and Space Administration. The meeting will be held in room 5092 of Federal Office Building 6, 400 Maryland Avenue SW., Washington, D.C. 20546. Members of the public will be admitted to the meeting beginning at 8:30 a.m., on both days, the agenda for which is noted below, on a first come first served basis up to the seating capacity of the room, which can accommodate about 30 persons.

The NASA Post Viking Mars Science Advisory Committee serves in an advisory capacity only. It serves to advise NASA on the continued exploration of the atmosphere, surface, and interior of Mars, and the search for evidence of life, following the Viking 1975 mission. The committee is chaired by Dr. George Wetherill. Currently, there are 13 members, plus a recording secretary, Brian Pritchard, who can be contacted for further information at 703-827-3431.

The following is the approved agenda and schedule for the May 11-12, 1973, meeting of the Post Viking Mars Science Advisory Committee:

MAY 11, 1973

Time	Topic
8:30 a.m.	Opening Remarks (Action: To preview the agenda and define objectives for this committee meeting.)
8:45 a.m.	Working session I (Action: At the previous meeting, an outline of the committee's final report was prepared. During the interim, members have been preparing drafts of segments of this report. In this and the following working sessions, the committee will review and discuss these segments with regard to the scientific objectives of Mars atmosphere, geology, and biology investigations, and the proposed instrumentation to meet these objectives. The committee will ultimately develop an integrated program for post Viking Mars exploration which will assist NASA in its planning for future planetary missions.)
1:00 p.m.	Viking 79 landing footprint (Action: To review the results of a study defining the landing footprint for a Viking 79 mission and to obtain the committee's recommendation as to the need for on-board systems to reduce the size of the footprint.)
1:30 p.m.	Mars rover capability (Action: To present to the committee the results of a study defining the capability of a Mars rover mission in the 79/81 time period and seek the committee's recommendation as to the role such a mission might play in Mars exploration.)
2:00 p.m.	Mars long lived orbiter (Action: To seek the committee's advice on whether or not a long-life (approximately 2 years in orbit) Mars orbiter for the 79/81 time period would satisfy the scientific objectives of Mars exploration.)
2:30 p.m.	Working session II (Action: See above.)

MAY 12, 1973

8:30 a.m.	Working session III (Action: See above.)
1:00 p.m.	Working session IV (Action: See above.)

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

APRIL 30, 1973.

[FR Doc.73-8706 Filed 5-2-73;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR ATMOSPHERIC SCIENCES

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Public Law 92-463) notice is hereby given that a meeting of the Advisory Panel for Atmospheric Sciences will be held at 9 a.m. on May 8 and 9, 1973, in room 338, 1800 G Street NW., Washington, D.C. 20550. The purpose of this panel is to provide advice and recommendations concerning support for research in atmospheric sciences.

The agenda for this meeting shall include:

MAY 8 SESSION

MORNING

9:00—Introductory remarks and review of summary minutes of November 9 and 10, 1972, meeting: Panel chairman
9:15—NSF highlights: Deputy assistant director for research
10:00—Review of NSF atmospheric science activities: Panel chairman
10:30—Review of NSF upper atmospheric research support: Program director, solar terrestrial program and program director, aeronomy program
12:15—Recess for lunch

AFTERNOON

1:30—Global atmospheric research program (GARP) program review: Scientific coordinator, NSF global atmospheric research program; professor of atmospheric sciences, University of Miami (Dr. John E. Geisler); and head, office of polar programs
4:00—Review of National Center for Atmospheric Research (NCAR): Head, office of national centers and facilities operations and scientific coordinator, National Center for Atmospheric Research
5:30—Adjournment

MAY 9 SESSION

MORNING

9:00—Review of NSF lower atmospheric research support: Program director and associate program director, meteorology program
10:30—Summary, discussion, and recommendations on "needs of the atmospheric sciences": Panel chairman
12:00—Recess for lunch

AFTERNOON

1:00—Continuation of discussion on "needs of the atmospheric sciences": Panel Chairman
3:00—Adjournment

The meeting shall be open to the public on a space available basis and individuals who wish to attend should notify Dr. Fred D. White, section head, atmospheric sciences section (telephone 202-632-4198) not later than close of business on May 7, 1973. For further information concerning this panel, contact Dr. Fred D. White, section head, atmospheric sciences section, room 312, 1800 G Street NW., Washington, D.C. 20550. Summary minutes of this meeting may be obtained by contacting the Management Analysis Office, room K-720, 1800 G Street NW., Washington, D.C. 20550.

T. E. JENKINS,
Assistant Director for Administration.

APRIL 20, 1973.

[FR Doc.73-8707 Filed 5-2-73;8:45 am]

ADVISORY PANEL FOR ECONOMICS

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Public Law 92-463) notice is hereby given that a meeting of the Advisory Panel for Economics will be held at 9 a.m. on May 18, 1973, in room 621 at 1800 G Street NW., Washington, D.C. 20550. The purpose of this panel is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects.

The agenda for this meeting consists of review of specific proposals and is concerned with matters which are within the exemptions of the Freedom of Information Act, 5 U.S.C. 552(b) and will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated January 15, 1973, pursuant to the provisions of section 10(d) of the Federal Advisory Committee Act. For further information concerning this panel, contact Dr. James H. Blackman, Program Director, Economics Program, room 205, 1800 G Street NW., Washington, D.C. 20550.

T. E. JENKINS,
Assistant Director for Administration.

APRIL 25, 1973.

[FR Doc.73-8708 Filed 5-2-73;8:45 am]

ADVISORY COMMITTEE ON ETHICAL AND HUMAN VALUE IMPLICATIONS OF SCIENCE AND TECHNOLOGY

Notice of Establishment

APRIL 27, 1973.

Pursuant to the Federal Advisory Committee Act (Public Law 92-463), it is hereby determined that the establishment of an Advisory Committee on Ethical and Human Value Implications of Science and Technology, as hereinafter identified, is necessary, appropriate and in the public interest in connection with the performance of duties imposed upon the National Science Foundation by the National Science Foundation Act of 1950, as amended, and other applicable law. This determination follows consultation with the Office of Management and Budget (OMB), pursuant to section 9(a)(2) of the Federal Advisory Committee Act and provisional OMB guidelines.

1. *Name of Committee.*—Advisory Committee on Ethical and Human Value Implications of Science and Technology.

2. *Purpose.*—To provide advice and counsel to the National Science Foundation concerning support of scholarly activities in the field of ethical and human value implications of science and technology in conjunction with cooperative programs of the National Science Foundation and the National Endowment for the Humanities; and to recommend priorities with respect to subject areas of research.

3. *Effective date of establishment and duration.*—The Committee is established effective 30 days after publication of this notice; and its duration shall be 2 years from the effective date.

4. *Membership.*—The membership on the Committee shall include reasonable representation of the fields of science, the humanities, and public affairs.

5. *Meetings.*—The Committee will normally meet two times annually or more frequently as required.

6. The Committee will operate in accordance with provisions of the Federal Advisory Committee Act (Public Law 92-463), Foundation policy and procedures, OMB Circular No. A-63 and other directives and instructions issued in implementation of the act.

H. GUYFORD STEVER,
Director.

[FR Doc.73-8709 Filed 5-2-73;8:45 am]

ADVISORY PANEL FOR EXPERIMENTAL R&D INCENTIVES

Agenda Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Public Law 92-463) notice is hereby given that a meeting of the Advisory Panel for Experimental R. & D. Incentives will be held at 9:30 a.m. on May 10 and 9 a.m. on May 11, 1973, at 1800 G Street NW., Washington, D.C. 20550 (meeting room locations are indicated in the agenda, below). The purpose of this panel is to review program plans and advise in connection with the selection of major experiments, projects, and studies sponsored by the experimental R. & D. incentives program.

A portion of this meeting will encompass meetings of the three standing subcommittees of this panel. The subcommittees are: Private Sector Subcommittee; Public Sector Subcommittee; and the Experimental Design Subcommittee. The purpose of the subcommittees is to review and evaluate respective program plans; overall objectives; priorities and targets; and specific proposals and projects.

The agenda for this meeting shall include (entries in parentheses identify portions of meeting open to the public):

MAY 10 SESSION

MORNING (OPEN TO THE PUBLIC), ROOM 540

9:30—Welcome and Introductions: Director, Office of Experimental R. & D. Incentives.
9:40—Opening Remarks: NSF Director.
10:00—Overview of Experimental R. & D. Incentives: Director, Office of Experimental R. & D. Incentives:
  Mission, Strategy, and Organization.
  Fiscal year 1973 History and Plans.
  Fiscal 1974 Program Plans.
10:30—Description of current activities:
  Private Sector—Head, Private Sector Office.
  Public Sector—Head, Public Sector Office.
  Experimental Design—Staff Associate, Experimental Design and Evaluation Staff.
11:30—Recess for lunch.

AFTERNOON, ROOM 540

1:00—Discussion of major experiment projects and experimental definitions: Project Officer, Private Sector Office; Head, Private Sector Office; Head, Public Sector Office.
4:00—Discussion of panel expectations and recommended subcommittee assignments: Panel Chairman (open to the public).
5:00—Adjournment.

MAY 11 SESSION

The panel will assemble into the three subcommittees (specific room locations for each appear below).

9:00—Discussion of subcommittee expectations and establishment of operating procedures: Subcommittee Chairman (open to the public).
10:00—Coffee break.
10:30—Detailed review of proposed experiments and studies: Subcommittee Chairmen.
12:30—Adjournment:
  Private Sector Subcommittee, room 511.
  Public Sector Subcommittee, room 550.
  Experimental Design Subcommittee, room 517.

Where specified in the agenda, the meeting will be open to the public on a

space available basis. The remainder of the meeting is concerned with matters which are within the exemptions of the Freedom of Information Act, 5 U.S.C. 552(b), and will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated January 15, 1973, pursuant to the provisions of section 10(d) of the Federal Advisory Committee Act. Individuals who wish to attend the meeting should notify Mr. Louis Higgs, Project Officer, Office of Experimental R. & D. Incentives (telephone 202-632-5778) not later than close of business on May 9, 1973. For further information concerning this panel, contact Mr. Louis Higgs, Project Officer, Office of Experimental R. & D. Incentives, room 549, 1800 G Street NW., Washington, D.C. 20550. Summary minutes of the open portion of this meeting may be obtained by contacting the Management Analysis Office, room K-720, 1800 G Street NW., Washington, D.C. 20550.

T. E. JENKINS,
Assistant Director for Administration.

APRIL 20, 1973.

[FR Doc.73-8714 Filed 5-2-73;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

AADAN CORP.

Order Suspending Trading

APRIL 27, 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 Aadan 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 April 28, 1973, through May 7, 1973.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,
Acting Secretary.

[FR Doc.73-8652 Filed 5-2-73;8:45 am]

[File No. 500-1]

ACCURATE CALCULATOR CORP.

Order Suspending Trading

APRIL 25, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Accurate Calculator Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from April 25, 1973 through May 4, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-8653 Filed 5-2-73;8:45 am]

[File No. 500-1]

ADMINISTRATIVE SYSTEMS, INC.

Order Suspending Trading

APRIL 26, 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 Administrative Systems, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 10 a.m., e.s.t. on April 26, 1973, and continuing through May 5, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-8654 Filed 5-2-73;8:45 am]

[File No. 24C-3328]

AMERICAN KWIK LEASING, INC.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

APRIL 26, 1973.

I. American Kwik Leasing, Inc. (Issuer), incorporated in the State of Ohio on June 14, 1971, filed with the Chicago regional office on August 20, 1971, a notification on form 1-A, and an offering circular pertaining to a proposed offering of 50,000 shares of no par value common stock at $10 per share for an aggregate offering price of $500,000 (24C-3328). On January 24, 1972, the Issuer was authorized to commence the offering.

This filing was made for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) thereof and regulation A promulgated thereunder.

II. The Commission has reason to believe from information reported to it by the staff that:

A. The Issuer's offering circular contains untrue statements of material facts and omits to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, including, but not limited to the following:

1. The failure of Issuer's predecessor to obtain 50 percent ownership of an exclusive distributorship for Bonanza International, Inc., for the geographical areas of certain counties in Pennsylvania, Ohio, and West Virginia;

2. The assignment by Issuer's predecessor of all rights in an exclusive area distributorship for Bonanza International, Inc., for the geographical area of certain areas in Pennsylvania, Ohio, and West Virginia;

3. The receipt of Issuer's common stock by general partners of the Issuer's predecessor for the assignment by the Issuer's predecessor of all its rights in an exclusive area distributorship for the geographical area of certain counties in Pennsylvania, Ohio, and West Virginia.

B. The offering was made in violation of sections 5 and 17 of the Securities Act of 1933.

III. It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of the issuer under regulation A be temporarily suspended;

It is ordered, Pursuant to rule 261(a) of the general rules and regulations under the Securities Act of 1933, that the exemption under regulation A be and hereby is temporarily suspended.

It is further ordered, Pursuant to rule 7 of the Commission's rules of practice, that the Issuer file an answer to the allegations contained in this order within 30 days of the entry thereof.

Notice is hereby given that any person having an interest in the matter may file with the Secretary of the Commission a written request for hearing within 30 days after the entry of this order; that within 20 days after receipt of such request, the Commission will or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for said hearing will be promptly given by the Commission. If no hearing is requested, and none is ordered by the Commission, this order shall become permanent on the 30th day after its entry and shall remain in effect unless, or until, it is modified or vacated by the Commission.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-8649 Filed 5-2-73;8:45 am]

[File No. 500-1]

BELAIR FINANCIAL CORP.

Order Suspending Trading

APRIL 26, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Belair Financial 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 10 a.m. e.s.t., on April 26, 1973, and continuing through May 5, 1973.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,
Acting Secretary.

[FR Doc.73-8655 Filed 5-2-73;8:45 am]

[File No. 500-1]

CLINTON OIL CO.

Order Suspending Trading

APRIL 26, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.03⅓ par value, and all other securities of Clinton Oil Co., 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 April 27, 1973, through May 6, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-8656 Filed 5-2-73;8:45 am]

[70-5335]

CONSOLIDATED NATURAL GAS CO.

Notice of Proposed Issue and Sale of Debentures

Notice is hereby given that Consolidated Natural Gas Co., 30 Rockefeller Plaza, New York, N.Y. 10020 (Consolidated), a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (act), designating sections 6(a) and 7 of the act and rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Consolidated proposes to issue and sell, subject to the competitive bidding requirements of rule 50, $50 million principal amount of —— percent debentures due June 1, 1998. The interest rate (which will be a multiple of one-eighth of 1 percent) and the price, exclusive of accrued interest (which will be not less than 99 percent or more than 102 percent of the principal amount thereof), will be determined by the competitive bidding. The debentures will be issued as a new series under a third supplemental indenture dated as of June 1, 1973, to the indenture between Consolidated and Manufacturers Hanover Trust Co., New York, N.Y., as trustee. The indenture includes a prohibition until June 1, 1978, against refunding the issue with or in anticipation of funds borrowed at a lower effective interest cost. The Series 1998 bonds will be subject to a sinking fund, commencing June 1, 1978, designed to retire 80 percent of the aggregate principal amount thereof by maturity. The proceeds of the sale of the debentures will be used to finance, in part, the 1973 capital expenditures of Consolidated's subsidiary companies, presently estimated at $167 million, including $107,500,000 required to develop sources of additional gas supply.

It is stated that the fees and expenses to be incurred in connection with the proposed transaction are estimated at $125,000 including $27,000 service charges at cost, of Consolidated Natural Gas Service Co., Inc., a wholly owned service company, and accountants' fees and expenses of $5,000. The fees and expenses of counsel for the underwriters are to be paid by the successful bidders; the amount will be supplied by amendment.

It is further stated that no 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 May 24, 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 the declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant 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 declaration, as filed or as it may be amended, may be permitted to become effective as provided in rule 23 of the "General Rules and Regulations" promulgated under the act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-8650 Filed 5-2-73;8:45 am]

[File No. 500-1]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

APRIL 27, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.10 par value, of Continental Vending Machine Corp., and the 6-percent convertible subordinated debentures due September 1, 1976, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934 that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period April 30, 1973, through May 9, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-8657 Filed 5-2-73;8:45 am]

[File No. 500-1]

COSMOS INDUSTRIES, INC.

Order Suspending Trading

APRIL 26, 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 Cosmos Industries, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 10 a.m. (e.s.t.) on April 26, 1973, and through May 5, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-8658 Filed 5-2-73;8:45 am]

[File No. 500-1]

CUSTER CHANNEL WING CORP.

Order Suspending Trading

APRIL 26, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, classes A and B, $0.05 no par value, and all other securities of Custer Channel Wing 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 10 a.m. e.s.t. on April 26, 1973, and continuing through May 5, 1973.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,
Acting Secretary.

[FR Doc.73-8659 Filed 5-2-73;8:45 am]

[File No. 500-1]

EQUITY FUNDING CORP. OF AMERICA

Order Suspending Trading

APRIL 26, 1973.

The common stock, $0.30 par value, of Equity Funding Corp. of America being traded on the New York Stock Exchange, the Midwest Stock Exchange, the Pacific Coast Stock Exchange, the Philadelphia-Baltimore-Washington Stock Exchange, the Boston Stock Exchange; warrants to purchase the $0.30 par value common stock being traded on the American Stock Exchange and the Philadelphia-Baltimore-Washington Stock Exchange; 9½ percent debentures due 1990 being traded on the New York Stock Exchange; and 5½ percent convertible subordinated debentures due 1991 being traded on the New York Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Equity Funding Corp. of America 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 section 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above-mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from April 27, 1973, and continuing through May 6, 1973.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,
Acting Secretary.

[FR Doc.73-8660 Filed 5-2-73;8:45 am]

[File No. 500-1]

FIRST LEISURE CORP.

Order Suspending Trading

APRIL 25, 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 First Leisure 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 April 26, 1973, through May 5, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-8661 Filed 5-2-73;8:45 am]

[File No. 500-1]

FIRST WORLD CORP.

Order Suspending Trading

APRIL 25, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the class A and class B common stocks, $0.15 par value, and all other securities of First World Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from April 25, 1973, through May 4, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-8662 Filed 5-2-73;8:45 am]

[File No. 500-1]

GEORGIA FACTORS, INC.

Order Suspending Trading

APRIL 26, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, and all other securities of Georgia Factors, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 10 a.m. (e.s.t.) on April 26, 1973 and continuing through May 5, 1973.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,
Acting Secretary.

[FR Doc.73-8663 Filed 5-2-73;8:45 am]

[File No. 500-1]

GIANT STORES CORP.

Order Suspending Trading

APRIL 27, 1973.

The common stock, $.10 par value, of Giant Stores Corp. being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Giant Stores Corp. 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 exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 12 m. on April 27, 1973 and continuing through May 6, 1973.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,
Acting Secretary.

[FR Doc.73-8664 Filed 5-2-73;8:45 am]

[File No. 500-1]

GOODWAY INC.

Order Suspending Trading

APRIL 27, 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 April 28, 1973 through May 7, 1973.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,
Acting Secretary.

[FR Doc.73-8665 Filed 5-2-73;8:45 am]

[File No. 500-1]

INDUSTRIES INTERNATIONAL, INC.

Order Suspending Trading

APRIL 26, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, and all other securities of Industries International, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities

otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from April 27, 1973 through May 6, 1973.

By the Commission.

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

[FR Doc.73-8666 Filed 5-2-73;8:45 am]

[File No. 500-1]

JEFFERSON NATIONAL EQUITIES CORP.

Order Suspending Trading

APRIL 26, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, and all other securities of Jefferson National Equities 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 10 a.m. (e.s.t.) on April 26, 1973 and continuing through May 5, 1973.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS, *Acting Secretary.*

[FR Doc.73-8667 Filed 5-2-73;8:45 am]

[File No. 500-1]

LOGOS DEVELOPMENT CORP.

Order Suspending Trading

APRIL 25, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Logos Development 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 in effect for the period from April 25, 1973 through May 4, 1973.

By the Commission.

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

[FR Doc.73-8668 Filed 5-2-73;8:45 am]

[812-3378]

NEW YORK SUPERANNUATION TRUST

Notice of Filing of Application for Exemption

In the matter of New York Superannuation Trust, c/o European-American Bank & Trust Co., trustee, 10 Hanover Square, New York, N.Y. 10005.

Notice is hereby given that New York Superannuation Trust (Applicant), a trust organized under the laws of New York, has filed an application for an order of the Commission exempting Applicant from all the provisions of the Investment Company Act of 1940 (Act) pursuant to section 6(c) thereof. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Applicant was established on January 18, 1973. The settlor of Applicant is Associated Enterprises Ltd., an English company (referred to herein as Grantor), which is a wholly-owned subsidiary of Unilever Ltd. (Unilever), also an English company. The corpus of Applicant consists of $5,000 contributed in cash by the Grantor upon Applicant's establishment. Unilever Superannuation Fund (Fund), an English pension trust, is the sole beneficiary of Applicant. Fund is administered in England for the benefit of more than 70,000 present and former employees of Unilever and certain of its affiliates, substantially all of whom reside in the United Kingdom. Approximately 25 former Unilever employees residing in the United States receive payments from the Fund; however, none of these, according to the Fund's records, is making contributions to the Fund. The Trustee of Applicant is European-American Bank & Trust Co., a New York corporation.

Applicant proposes to enter into a transaction intended to qualify as a parallel financing arrangement under the regulation of the Office of Foreign Direct Investments of the U.S. Department of Commerce (OFDI). Honeywell, Inc. (Honeywell), a Delaware corporation, proposes to lend Applicant the dollar equivalent of £5,000,000 (approximately $12,000,000 at the current rate of exchange) for a period of 9 years and 350 days at an interest rate of 6 percent per annum, and the Fund proposes to lend £5,000,000 on the same terms to Honeywell, Ltd., an English company, all the outstanding stock of which is indirectly owned by Honeywell. An application for specific authorization filed on behalf of Honeywell has been granted by the OFDI. An application has also been filed on behalf of Honeywell with the U.S. Internal Revenue Service with respect to the U.S. interest equalization tax consequences of the proposed transaction. Applicant further states that it may enter into a small number of similar parallel financing transactions on substantially the same terms and conditions, and that such transactions may involve persons other than Honeywell.

Applicant represents it will invest the proceeds of such dollar loans in U.S. securities, including Government obligations, with the purpose of diversifying the Fund's portfolio; that it is required to distribute the net income of Applicant's annually to the Fund; that upon its termination its principal and undistributed net income is to be paid to the Fund and that its trustee may make investment decisions only in accordance with the written instructions of an Investment Advisory Committee composed of the persons serving from time to time as directors of Unilever Pension Investments, Ltd., the Fund's investment adviser, an English company and a wholly owned subsidiary of Unilever.

Applicant may be deemed to be an investment company within the meaning of either section 3(a)(1) of the Act, as or holding itself out as being engaged primarily, or proposing to engage primarily, in the business of investing, reinvesting, or trading in securities, or section 3(a)(3), as engaging or proposing to engage in the business of investing, reinvesting, owning, holding, or trading in securities and owning or proposing to acquire investment securities with a value exceeding 40 percent of its total assets (exclusive of Government securities and cash items) on an unconsolidated basis. Applicant contends, however, that to the extent the Act is applicable, Applicant should be exempted from its provisions under section 6(c) of the Act.

Section 6(c) authorizes the Commission by order upon application conditionally or unconditionally to exempt any person or any class or classes of persons from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant states that it clearly fits within the general intent of the exception from the definition of investment company contained in section 3(c)(1) of the Act. That section excepts from the Act any issuer whose outstanding securities are beneficially owned by not more than 100 persons and which is not making and does not presently propose to make a public offering of its securities. Beneficial ownership by a company is deemed to be beneficial ownership by one person except, where the company owns 10 percent or more of the outstanding voting securities of the issuer, the beneficial ownership is deemed to be that of the holders of such company's securities. Applicant has no voting securities, its sole beneficiary is the Fund, and Applicant is not making and does not presently propose to make a public offering of its securities. Applicant contends that even if the Fund were deemed to hold voting securities of Applicant for purposes of section 3(c)(1), it is doubtful that the beneficiaries of the Fund would be deemed to be holders of any securities, as defined in section 2(a)(36) of the Act, of the Fund for purposes of attributing to them any interest of the Fund in the Applicant.

Applicant contends that even if it is not qualified for exemption based on the provisions of section 3(c)(1) of the Act, exemption under section 6(c) of the Act is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than May 17,

1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues of act or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address set forth above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

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

[FR Doc.73–8651 Filed 5–2–73;8:45 am]

[File No. 500–1]

ORECRAFT, INC.

Order Suspending Trading

APRIL 25, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.04 par value, and all other securities of Orecraft, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from April 25, 1973 through May 4, 1973.

By the Commission.

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

[FR Doc.73–8669 Filed 5–2–73;8:45 am]

[File No. 500–1]

PELOREX CORP.

Order Suspending Trading

APRIL 25, 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 April 26, 1973, through May 5, 1973.

By the Commission.

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

[FR Doc. 73–8670 Filed 5–2–73;8:45 am]

[File No. 500–1]

PHOTON, INC.

Order Suspending Trading

APRIL 25, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $1 par value and all other securities of Photon, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from April 25, 1973, through May 4, 1973.

By the Commission.

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

[FR Doc.73–8671 Filed 5–2–73;8:45 am]

[File No. 500–1]

STANDARD MOTELS, INC.

Order Suspending Trading

APRIL 26, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $1 par value and all other securities of Standard Motels, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 10 a.m., e.s.t., on April 26, 1973, and continuing through May 5, 1973.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS, *Acting Secretary.*

[FR Doc.73–8674 Filed 5–2–73;8:45 am]

[File No. 500–1]

STAR-GLO INDUSTRIES INC.

Order Suspending Trading

APRIL 27, 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 Star-Glo Industries Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period April 29, 1973, through May 8, 1973.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS, *Acting Secretary.*

[FR Doc.73–8673 Filed 5–2–73;8:45 am]

[File No. 500–1]

TACO KING, INC.

Order Suspending Trading

APRIL 26, 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 Taco King, 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 10 a.m., e.s.t., on April 26, 1973, and continuing through May 5, 1973.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS, *Acting Secretary.*

[FR Doc.73–8672 Filed 5–2–73;8:45 am]

[File No. 500–1]

TEXTURED PRODUCTS, INC.

Order Suspending Trading

APRIL 25, 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 Textured Products, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this

order to be effective for the period from April 25, 1973, through May 4, 1973.

By the Commission.

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

[FR Doc.73-8676 Filed 5-2-73;8:45 am]

[File No. 500-1]

TRANSVAC, INC.

Order Suspending Trading

APRIL 26, 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 Transvac, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 10 a.m., e.s.t., on April 26, 1973, and continuing through May 5, 1973.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS, *Acting Secretary.*

[FR Doc.73-8675 Filed 5-2-73;8:45 am]

[File No. 500-1]

TRIONICS ENGINEERING CORP.

Order Suspending Trading

APRIL 26, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, and all other securities of Trionics Engineering 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 April 27, 1973, through May 6, 1973.

By the Commission.

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

[FR Doc.73-8677 Filed 5-2-73;8:45 am]

SMALL BUSINESS ADMINISTRATION

SMALL BUSINESS INVESTMENT COMPANY NATIONAL ADVISORY COUNCIL

Notice of Meeting

A meeting of the Small Business Administration Small Business Investment Company National Advisory Council will be held on Thursday, May 17, 1973, at 9 a.m. in room 1000 of the Small Business Administration Central Office, 1441 L Street NW., Washington, D.C., to discuss new regulations and other matters which the council members may propose and which fall within the authority of the Council to advise the Small Business Administration.

Dated April 25, 1973.

JOHN JAMESON, *Director, Office of Advisory Councils, Small Business Administration.*

[FR Doc.73-8639 Filed 5-2-73;8:45 am]

DEPARTMENT OF LABOR

Office of the Secretary

EAST PALESTINE, OHIO PLANT OF ROYAL CHINA CO., SEBRING, OHIO

Worker Request for Certification of Eligibility To Apply for Adjustment Assistance; Notice of Investigation

A petition requesting certification of eligibility to apply for adjustment assistance has been filed, on April 23, 1973, with the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, by the International Brotherhood of Pottery and Allied Workers, AFL-CIO, on behalf of workers of the East Palestine, Ohio, plant of Royal China Co., Sebring, Ohio. The request for certification is made under Proclamation 4125 (Adjustment of Duties on Certain Ceramic Tableware) of April 22, 1972 (37 FR 8369). In that proclamation the President, among other things, acted to provide under section 302(a)(3) with respect to the industry producing earthen tableware that its workers may request the Secretary of Labor for certifications of eligibility to apply for adjustment assistance, under chapter 3, title III, of the Trade Expansion Act of 1962.

The act, section 302(b)(2), provides that the Secretary of Labor shall certify as eligible to apply for adjustment assistance under chapter 3 any group of workers in an industry with respect to which the President has acted under section 302(a)(3), upon a showing by such group of workers to the satisfaction of the Secretary of Labor that the increased imports (which the Tariff Commission has determined to result from concessions granted under trade agreements) have caused or threatened to cause unemployment or underemployment of a significant number or proportion of workers of such workers' firm or subdivision thereof.

In view of the petition and the responsibilities of the Secretary of Labor, the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, has instituted an investigation, as provided in 29 CFR 90.11. The investigation relates, as above indicated, to the determination of whether any of the group of workers covered by the request should be certified as eligible to apply for adjustment assistance, including the determinations of related subsidiary subjects and matters, such as the date unemployment or underemployment began or threatened to begin and the subdivision of the firm involved to be specified in any certification to be made, as more specifically provided in subpart C of 29 CFR part 90.

Interested persons should submit written data, views, or arguments relating to the subjects of investigation to the Director, Office of Foreign Economic Policy, U.S. Department of Labor, Washington, D.C. 20210, on or before May 8, 1973.

Signed at Washington, D.C., this 24th day of April 1973.

GLORIA G. VERNON, *Director, Office of Foreign Economic Policy.*

[FR Doc.73-8690 Filed 5-2-73;8:45 am]

CUMULATIVE LISTS OF PARTS AFFECTED—MAY

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during May.

FEDERAL REGISTER PAGES AND DATES—MAY

Pages	*Date*
10699–10788	May 1
10789–10908	2
10909–11052	3

federal register

THURSDAY, MAY 3, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 85

PART II

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

■

MILK IN THE LAKE MEAD MARKETING AREA

Proposed Rules

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1139]

[Docket No. AO374]

MILK IN THE LAKE MEAD MOUNTAIN AREA

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

Notice is hereby given of the filing with the hearing clerk of this recommended decision with respect to a proposed marketing agreement and order regulating the handling of milk in the Lake Mead marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, on or before May 11, 1973. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the hearing clerk during regular business hours (7 CFR 1.27(b)).

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

Preliminary statement.—The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at St. George, Utah, October 17–19, 1972, pursuant to notice thereof which was issued September 27, 1972 (37 FR 20563).

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

1. Whether the handling of milk produced for sale in the proposed marketing area is in the current of interstate commerce, or directly burdens, obstructs, or affects interstate commerce in milk or its products;

2. Whether marketing conditions show the need for the issuance of a milk marketing agreement or order which will tend to effectuate the policy of the act; and

3. What the order provisions should be with respect to:

(a) The scope of regulation;

(b) The classification and allocation of milk;

(c) The determination and level of class prices;

(d) Distribution of proceeds to producers; and

(e) Administrative provisions.

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

1. *Character of commerce.*—The handling of milk in the marketing area adopted herein is the current of interstate commerce and directly burdens, obstructs, and affects interstate commerce in milk and milk products.

The marketing area defined in the proposed order, hereinafter referred to as the "Lake Mead marketing area," includes part of Clark County in southern Nevada and two communities in southern Utah (St. George and Cedar City). Most of the population of the area is centered in the Las Vegas metropolitan area.

Milk marketing in southern Nevada is regulated by the Nevada Dairy Commission. The handlers located there, principally at Las Vegas, are supplied by about 15 dairy farmers whose farms are in southern Nevada. About 40 percent of the milk processed by the southern Nevada handlers is not classified and priced by the Commission.

Milk production in southern Nevada is not sufficient to meet the handlers' needs for bottling use and for cottage cheese and ice cream sales. An increasing quantity of milk and dairy products originates outside Nevada.

The milk supply originating in Nevada was supplemented with 41 million pounds of milk from outside the State in 1969, 43 million pounds in 1970, and 48 million pounds in 1971. A substantial portion of the total milk processed by southern Nevada handlers originates from 28 producers whose farms are in southern Utah. Milk from some of these producers is received at a processing plant at Cedar City, Utah, which plant also distributes fluid milk products in the southern Nevada area. The remainder is received at Nevada plants where it is commingled with milk from Nevada farms in processing operations.

Safeway Stores, Inc., markets fluid milk and milk products in southern Nevada from its plant at Los Angeles, Calif., utilizing raw milk produced in Nevada and California. Also, the firm markets milk products in southern Utah utilizing raw milk associated with the Great Basin Federal order, which milk originates in Utah, Wyoming, northeastern Nevada, and Idaho. Lucky Stores, Inc., serves southern Nevada with fluid milk and milk products from its plant in California utilizing raw milk produced in California.

In addition to the regular and substantial flow of fluid milk and milk products in interstate commerce in both packaged and bulk form, there is a regular movement of manufactured dairy products into the marketing area. No butter, hard cheese, or nonfat dry milk is manufactured by southern Nevada plants or by the plant at Cedar City, Utah. These products are supplied from other sources, normally from outside Nevada. Also, milk that is excess to the market's needs is, at times, disposed of to plants located outside the State of Nevada where it is processed into milk products.

2. *Need for an order.*—There is general agreement among producer groups in the market that marketing conditions in the area are such that an overall system of classification, pricing, and accounting for milk should be adopted to restore stability, and that for such a system to be effective it must be established under Federal authority.

No testimony was presented at the hearing in opposition to such regulation.

There are three cooperative associations seeking Federal milk regulation in the Lake Mead area. Clark County Dairymen, Inc., is a farmer cooperative. The association does not operate processing facilities, and its members produce milk and market it primarily through Arden Farms, Las Vegas, a proprietary distributor.

General Dairies, Inc., is a farmer cooperative. It has processing facilities in both the States of Utah and Nevada. The plant of General Dairies, Inc., at Cedar City processes considerable quantities of milk that are distributed in the Cedar City, St. George (Utah), and Las Vegas areas. Milk processed at the Cedar City plant is received from farms located in both Utah and Nevada.

Vegas Valley Farms is a corporation organized under the laws of the State of Nevada and owned by General Dairies, Inc. It has a fluid milk processing facility at Logandale, Nev., and a distribution facility in Las Vegas. Milk processed at the Logandale plant is received from producers located in Utah and Nevada.

Alamo Dairymen Association is a farmer cooperative. It has no fluid milk processing facility and its producers market their milk to General Dairies, Inc., for such processing at its Cedar City plant.

The proponents represent 38 of the 43 producers who produce milk in southern Utah and southern Nevada. The five producers who were not represented by proponents are two producers for the St. George Ice Co., at St. George, and three producers who market their milk with Anderson Dairy, Las Vegas.

The problem on which the need for an order is based is that the State of Nevada cannot enforce its classified pricing program on milk produced outside Nevada. Since a substantial amount of milk for the market originates in Utah, the prices established by the Nevada Dairy Commission are not applicable to it. Thus, the milk produced in southern Utah and processed in southern Nevada plants is not subject to regulation by the Commission. Yet, milk produced in southern Nevada and that produced in southern Utah compete for the same market.

The largest handler serving the Las Vegas area receives milk from his own farm and from 18 other producers. Of these, 15 reside in southern Utah. Since the handling of milk produced in southern Utah is not subject to regulation by the Nevada Dairy Commission, the handler can, and does, buy milk from Utah producers at prices substantially lower than those established by the Commission. By so doing he enjoys a raw milk cost advantage over competition that

buys milk fully subject to the regulations of the Nevada Dairy Commission.

The handler buys milk from Utah producers on the basis of 80 percent Class I and 20 percent Class II utilization. A producer spokesman from Washington County, Utah, testified that this ratio has been used to pay him and other Utah producers for the past several years, irrespective of the actual utilization of milk.

Data published by the Nevada State Dairy Commission indicated that Nevada milk production for the Southern Nevada marketing area totaled 52.5 million pounds for the year of 1971. Of this total 46.8 million pounds (89 percent) was used in Class I. During 1970, 89 percent of the 54.9 million pounds of Nevada milk production for the market was used in Class I.

The Utah producer witness testified that he received a blend price (before deductions) of $5.65 per cwt for milk testing 3.5 percent butterfat for his July 1972 milk deliveries. If such milk had been subject to the Nevada State Dairy Commission prices, his "blend" price would have been 42 cents higher at $6.07 for such month.

From the foregoing price and utilization data, it is concluded that there is no overall plan whereby all dairy farmers who supply milk for distribution in the Lake Mead area are assured of payment for their milk in accordance with its use and at prices that are uniformly applicable throughout the market.

The problems of unstable marketing conditions encountered by producers in the Lake Mead marketing area are not unlike those in other fluid milk markets where there had been, prior to Federal regulation, no program for regulating all producer milk supplies on uniform terms. The present unstable marketing conditions in southern Nevada and southern Utah could threaten the maintenance of an adequate supply of milk for the Lake Mead marketing area. A Federal milk order establishing class prices at reasonable levels and a marketwide pool for distributing returns uniformly among all producers will provide the needed market stability. Price stability and orderly marketing throughout the entire Lake Mead marketing area depend on the adoption of a classified pricing plan based on audited utilization of all Grade A milk purchased by handlers from producers and an equitable division among all producers of the proceeds from the sale of their milk.

Both the southern Utah producers and the southern Nevada producers will be assured of reasonable minimum prices applicable to the respective class-uses provided herein. A Federal milk order will assure them that all their milk will be priced according to its use and that each producer will share pro rata in the returns from the sale of their milk in the respective classes.

Handlers will be assured that their competitors will pay for milk at not less than the minimum prices set by the order and that such prices will apply whether the milk originates in southern Utah or southern Nevada.

Also, a Federal milk order should help prevent wide fluctuations in prices through seasonal periods of heavy and light milk production and thus, by providing increased assurance to producers concerning their market, help to assure consumers in the Lake Mead marketing area of an adequate supply of milk throughout the year.

Moreover, there is now a lack of detailed marketing information relative to the procurement and disposition of milk throughout the Lake Mead area. Such information is essential to orderly marketing on a continuing basis. A Federal milk order for the Lake Mead area will provide further benefit of complete information on receipts and utilization of milk.

In addition, the procedures required by the act will afford all interested persons opportunity to take part in determining, through public hearing, what the various provisions of the order should be to insure the orderly marketing of milk on a continuing basis.

3. *The Lake Mead order provisions.*— (a) *The scope of regulation.*— It is necessary to designate clearly what milk and which persons would be subject to the various provisions of the order. This is accomplished by providing specific definitions to describe: (1) The marketing area; (2) route disposition; (3) the types of plants; (4) the various categories of regulated persons (handlers); and (5) the persons (producers) whose milk will be subject to the uniform prices.

Marketing area.—The Lake Mead marketing area should include the urbanized territory within Clark County, Nev. (including Nellis Air Force Base), and the territory within the municipal limits of Cedar City and St. George, Utah.

The urbanized territory of Clark County includes the following incorporated and unincorporated places: Henderson City in Henderson Township; East Las Vegas, Las Vegas City, Paradise, Sunrise Manor (part), Vegas Creek, and Winchester in Las Vegas Township; Boulder City, in Nelson Township; and Nellis, North Las Vegas City, and Sunrise Manor (part) in North Las Vegas Township.

The urbanized area in Clark County and the cities of Cedar City and St. George, Utah, have experienced considerable population growth over the past 10 years. The Las Vegas urbanized area population increased 156 percent from 1960 to 1970. Over the same 10-year period, the population of St. George, Utah, increased 38 percent, while the population of Cedar City increased 19 percent.

The 1970 census population of the proposed Lake Mead marketing area was 270,928. Of this total 254,885 or 94.1 percent resided in the Las Vegas urban area.

Proponents proposed that all of Clark County, Nev., be included in the marketing area. However, the county comprises 7,874 square miles while the urbanized population is situated in a relatively compact area surrounding Las Vegas. The 1970 population of Clark County was 273,288 and the population of the Nevada portion of the marketing area proposed herein was 93.3 percent of the total population of Clark County. Handler competition for fluid sales is concentrated in the heavily populated area, and the Nellis Air Force Base. With a very large proportion of the total population residing in a relatively compact area, it is concluded that all of Clark County need not be included in the marketing area, as producers proposed.

The 1970 census data for Iron County, Utah, indicate a population of 12,177. About 74 percent resided in Cedar City. The remainder of the population for the county is rural. A similar situation exists concerning Washington County, Utah. The 1970 census data indicates a population of 13,669 for Washington County. About 52 percent resided in the city of St. George. The remainder of the Washington County population is rural. With a significant proportion of the population in Iron and Washington counties residing within the municipal limits of Cedar City and St. George, competition among handlers for fluid sales is concentrated in such areas. Accordingly, the marketing area should be limited to the municipal limits of the two cities rather than expanded to include the entire two-county area.

The major handlers who distribute milk in the defined marketing area are Anderson Dairy, Las Vegas; Arden Farms, Las Vegas; Vegas Valley Farms, Logandale, Nev.; Safeway Stores, Oakland, Calif.; Lucky Stores, Bueno Park, Calif.; St. George Ice Co., St. George, and General Dairies, Cedar City.

A significant amount of milk processed at the Cedar City plant is distributed in Las Vegas, while the major portion of the fluid disposition from the St. George plant is made in the vicinity of that city.

The Cedar City plant would be fully regulated by the Lake Mead order, regardless of whether the cities of St. George and Cedar City are included in the marketing area because of its route disposition in Clark County. However, if both cities were not included, the plant located at St. George would not be regulated. As a result, about 50 percent of the sales from the Cedar City plant would be disposed of as route disposition in competition with an unregulated plant located close by at St. George.

Grade A milk products sold for fluid consumption throughout the defined marketing area must be approved by duly constituted regulatory agencies who are governed by health ordinances, practices, and procedures patterned after the U.S. Public Health Service Grade A Pasteurized milk ordinance. Also, the States of Nevada and Utah have reciprocal agreements with respect to the interstate movement of milk from handler facilities approved and operated under the U.S. Public Health Service Interstate Milk Shippers Code. Because of such reciprocal approval of responsible regulatory agencies, there generally is free and un-

restricted movement of Grade A milk both in bulk and packaged form among various locations in the market.

The order also should provide that governmental establishments located wholly or partly within the boundaries of the designated marketing area can be considered as part of the marketing area. If such governmental establishments are located partly within and partly outside the designated boundary, the entire establishment shall be a part of the marketing area. The point of delivery within any such installation should not be the factor in determining whether a handler is subject to the order. Therefore, all territory occupied by a governmental establishment shall be a part of the marketing area if any part of such territory lies geographically within the designated boundaries of the marketing area.

It is concluded that the marketing area proposed herein should result in effective regulation of the principal handlers who compete for sales in the Las Vegas area, and throughout southern Utah, without bringing under regulation plants having minimal sales within the marketing area.

All producer milk received at plants to be regulated must be made subject to classified pricing under the order regardless of whether it is disposed of within or outside the marketing area. Otherwise the effect of the order would be nullified and the orderly marketing process would be jeopardized.

If only a pool handler's "in-area" sales were subject to classification, pricing, and pooling, a regulated handler with Class I sales both inside and outside the marketing area could assign any value he may choose to his outside sales. He thereby could reduce the average cost of all his Class I milk below that of other regulated handlers having all, or substantially all, of their Class I sales within the marketing area. Unless all milk of such a handler were fully regulated under the order, he in effect would not be subject to effective price regulation.

The absence of effective classification, pricing, and pooling of such milk would disrupt orderly marketing conditions within the regulated marketing area and could lead to a complete breakdown of the order. If a pool handler were free to value a portion of his milk at any price he chooses, it would be impossible to enforce uniform prices to all fully regulated handlers or a uniform basis of payment to the producers who supply the market. It is essential, therefore, that the order price all producer milk received at a pool plant regardless of the point of disposition.

Route disposition.—The term "route disposition" should mean a delivery to a retail or wholesale outlet (except to another plant), either directly or through any distribution facility (including disposition from a plant store, vendor, or vending machine), of a fluid milk product classified as Class I.

Fluid milk products are sometimes moved from a milk plant to a facility such as a warehouse, loading station, storage plant, or other transfer point on the way to a wholesale or retail outlet. The distribution from such point would be considered as a continuation of a route from a milk plant. To do otherwise would be inappropriate because it would consider the disposition of fluid milk products to have been made at the temporary storage facility instead of at the location which such products are received by retail and wholesale purchasers.

Definitions of plants.—Essential to the operation of a marketwide pool is the establishment of minimum performance standards to distinguish between those plants substantially engaged in serving the fluid needs of the market and those plants that do not serve the market in a way, or to a degree, that warrants their sharing (by being included in the market pool) in the market average utilization of Class I milk.

Such distinction is necessary; otherwise, the proceeds of the higher Class I price would be dissipated by including in the market pool additional quantities of milk acquired by handlers primarily for manufacturing purposes. Such proceeds could accrue in part to the benefit of dairy farmers supplying milk to handlers who do not furnish the fluid milk needs of the market on a regular, dependable basis. Unless adequate standards of marketing performance are provided to determine which milk and plants should participate fully in the market pool funds, the uniform price of the market could be depressed to the point that it would not serve its function of attracting a dependable supply of milk sufficient for the fluid needs of the market without a Class I price higher than otherwise would be necessary.

Delivery performance should be the measure of whether a plant is sufficiently identified with the market to be fully subject to the pricing and pooling provisions of the order. Of necessity, it must apply uniformly to all plants. The standards for pool participation are discussed later in this decision in connection with the definition of a pool plant.

Regardless of its location, any plant should have equal opportunity to comply with the standards of performance and have their producers share in the available Class I sales. Whether the plants and producers choose to supply the market will depend on the economic circumstances with which they are confronted, such as prices, transportation costs, and alternative outlets.

Because of the difference in marketing functions between distributing plants and supply plants, separate performance standards are provided.

A "distributing plant" is defined herein as a plant in which milk approved by a duly constituted regulatory agency for fluid consumption, or filled milk, is processed or packaged and from which there is route disposition in the marketing area during the month.

A "supply plant" is defined herein as a plant from which fluid milk products acceptable to a duly constituted regulatory agency for fluid consumption, or filled milk, is transferred during the month to a pool distributing plant.

Pool plants.—To qualify as a pool plant, a distributing plant would be required to meet performance standards both as to the proportion of its receipts used in route disposition, and its route disposition in the marketing area.

Pool distributing plants would include only plants having as a primary function the route disposition of fluid milk products. The plant's total route disposition, both inside and outside the marketing area, must be at least 50 percent of its receipts of Grade A fluid milk products from all sources and producer milk diverted to nonpool plants. In addition, the plant's route disposition in the marketing area must be at least 10 percent of such receipts.

It is expected that under normal circumstances any plant distributing Class I milk in the marketing area on a regular basis would exceed by a comfortable margin the minimum performance standards for pooling.

Three plants located in the bordering States of California and Utah have some route disposition in the Lake Mead marketing area. Two of the plants are subject to regulation under the California Bureau of Milk Stabilization and the other one is regulated under the Great Basin Federal order. The hearing did not provide reasons to expect that these plants will meet the 10 percent in-area route disposition requirement for pooling under the Lake Mead order. There may be other such plants in the future. All plants, not subject to the pricing and pooling provisions of another Federal order with route disposition in the marketing area should be required, however, to file reports and make available their records for audit by the market administrator as a basis of determining their status under the pooling requirements.

A proprietary handler representative proposed that the minimum in-area route disposition to qualify a distributing plant for pooling be 15 percent of receipts of Grade A milk, including producer milk diverted. The handler witness contended that the minimum in-area route disposition requirement proposed by producers be raised so that a plant located in Los Angeles definitely would not qualify as a pool plant. The witness stated that about 8 percent of the receipts at the Los Angeles plant is distributed in the southern Nevada area. The witness indicated further that such plant anticipates expanded sales in the southern Nevada area in the near future.

The operation of the pool is an essential feature of the regulation, which is designed to maintain orderly marketing, since it is the mechanism through which producers enjoy the benefits of the Class I sales value and also share equitably in the burden of any lower-valued surplus disposition.

We conclude that the interests of the producers are served best when the maximum proportion of milk regularly supplied to the market is regulated on such terms. The provision provided herein will accomplish this and at the same

time will permit exemption from pooling milk at a plant that might only incidently, or perhaps accidentally, become involved in distribution within the marketing area.

As a general proposition any percentage higher than 10 percent would make possible a higher incidence of exemption from regulation for distributing plants. In the particular instance cited, the California plant has a large volume of fluid milk disposition, and 15 percent of such plant's volume would represent a substantial portion of the Lake Mead market. We find no basis in this proceeding to warrant adoption of a provision that would tend to reduce the proportion of that milk pooled.

The in-area route disposition standard for pooling would not restrict, however, any milk plant operator from disposing of fluid milk products in the marketing area. On the other hand, the operator of any plant only marginally associated with the market has a reasonable opportunity to make a choice of full or partial regulation, whichever might better serve his interest.

The further appropriate criterion for a pool distributing plant is that plant utilization be basically for fluid disposition. The definition provided herein specifies that 50 percent or more of the Grade A receipts received by the distributing plant must be disposed of on routes (in or out of the marketing area) as fluid milk products (except filled milk).

"Supply plant" is the other plant category for which standards for pooling must be provided. A supply plant would be a plant from which a fluid milk product acceptable to a duly constituted regulatory agency for fluid consumption, or filled milk, is transferred during the month to a pool distributing plant.

To qualify as a pool plant, a supply plant would have to transfer to pool distributing plants in the form of fluid milk products at least 50 percent of its Grade A milk receipts from dairy farmers. A plant thus transferring the major portion of its receipts from dairy farmers to regulated distributing plants makes a substantial contribution towards providing an adequate supply for the market and hence may reasonably be considered as an integral part of the fluid milk supply for the market.

A supply plant from which a proportionately lesser quantity of milk than herein provided is transferred to pool distributing plants without otherwise having established a continuing association with the market should not, under present conditions, be considered as contributing sufficiently to the market supply to share in the pool funds.

At the hearing, a witness for proponent cooperatives stated that there is no plant currently serving the Lake Mead market that would qualify as a supply plant. Perhaps supply plants will become associated with the market in the future. Accordingly, provision should be made for such a supply plant to participate in the pool if the performance standards are met.

The demand for supply plant milk may vary seasonally and normally would be greatest during the season of lower production. Requiring qualifying transfers to pool distributing plants during flush production months would result in the uneconomic movement of milk. During such months it would be appropriate to leave the more distant milk for manufacture in the distant area if not needed, and to use the nearer supplies for Class I. For this reason, the supply plant pooling standard should not require that milk be transferred to pool distributing plants in the flush production months solely for the purpose of maintaining the pool eligibility of a supply plant.

Therefore, a supply plant that was a pool plant in each of the immediately preceding months of August through February would be a pool plant for the months of March through July irrespective of its transfers to pool distributing plants, unless the operator of such a plant elects nonpool status for the plant.

Providing pooling status to a supply plant in March through July on the basis of transfers in the preceding August–February period will provide continuing producer status to dairy farmers who are recognized as milk suppliers of the market. However, a plant should be permitted to withdraw from pool status at the operator's option in any of the months of March through July in which it has not otherwise qualified as a pool plant. A plant withdrawn from pool plant status should not be reinstated, however, for any subsequent month of March through July unless it meets the shipping percentage for such month. In these circumstances it should be treated no differently than any other supply plant associating with the market for the first time.

The standards provided herein for pooling supply plants are deemed to provide a reasonable and appropriate measure as to whether a plant is sufficiently identified with the Lake Mead market without, at the same time, excluding from pool participation handlers whose plants have been a regular and dependable source of fluid milk supply for the market.

Limited quantities (as provided in the attached order) of Class I milk may be sold within the regulated marketing area from plants not regulated under any Federal order. It is concluded that in present circumstances the application of "partial" regulation to plants having less association than required for marketwide pooling will not jeopardize marketing conditions within the regulated marketing area. Official notice was taken at the hearing of the Assistant Secretary's June 19, 1964, decision (29 FR 9002) supporting amendments to 76 orders, in which the matter of partial regulation was discussed. The findings of that decision, as they relate to an unregulated plant have some Class I distribution in a marketing area, are appropriate for the designated marketing area and the decision is adopted in its entirety as is set forth herein.

The operator of a partially regulated plant would be afforded the options of: (1) Paying a compensatory charge with respect to route disposition in the marketing area; (2) purchasing at the Class I price under any Federal order sufficient Class I milk to cover his route disposition within the marketing area; or (3) paying his dairy farmers not less than the value of all their milk computed on the basis of the classification and pricing provisions of the order (the latter representing an amount equal to the order obligation for milk which is imposed on fully regulated handlers).

While all fluid milk sales of the partially regulated plant would not necessarily be priced on the same basis as fully regulated milk, the provisions described are, however, adequate under most circumstances to prevent sales of milk not fully regulated (pooled) from adversely affecting the operation of the order. They should be adopted in this order to complement the pooling standards for fully regulated plants adopted herein.

The order provides further that a distributing plant from which an average of less than 300 pounds of Class I milk per day, except filled milk, is disposed of in the marketing area shall be an "exempt distributing plant." There are some "jugging" operations in southern Utah. Such operations were described as being very small, and having only a "de minimus" impact in the competition for fluid milk sales. It would not promote efficient administration of the order to apply the order provisions to distributing operations that are competitively inconsequential. It is concluded that exempting such operations will not contribute significantly to disorderly marketing.

The pool plant provisions adopted herein specify that the definition of "pool plant" shall not include a producer-handler's plant or an "exempt distributing plant." Neither should it include a distributing plant or a supply plant that is subject to regulation by another order. The provisions provided herein include a reasonable means of determining the order under which a distributing plant or a supply plant should be regulated when it meets the pooling qualifications of more than one order.

The pool plant definition should not apply to a distributing plant that also meets the pooling requirements of another Federal order and from which the Secretary determines there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, except that if such plant were subject to all the provisions of the Lake Mead order in the immediately preceding month, it would continue to be subject to all the provisions of the order until the third month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area unless, notwithstanding the provisions provided

herein it is regulated under such other order.

The provision is aimed at limiting the casual, disruptive shifting between orders on a month-by-month basis that can occur when intermarket route disposition results in qualifying a distributing plant for pooling under more than one order. While this is not expected to be a problem for the Lake Mead market in the foreseeable future, it is appropriate, at the outset of regulation, to make such provision in the order.

It is possible that a supply plant qualified for pooling under the Lake Mead order could qualify as a pool supply plant under another Federal order in the same month. While no specific proposal was made with respect to this issue, the order should provide for such a situation if it occurs. The order provides herein that such a plant be regulated by the order under which it makes the greater qualifying shipments, unless the milk goes for surplus disposal only and the plant elects to retain its automatic pool status under the Lake Mead order during the March through July period.

In computing whether a plant has met the applicable pooling percentages, the receipts and disposition of filled milk should be excluded. A detailed discussion of the need and basis for making certain provision for the disposition of filled milk under an order is contained in a decision issued by the Assistant Secretary on October 13, 1969 (34 FR 16881). It is made a part hereof by reference as the basis for adopting the same provisions in the Lake Mead order.

Nonpool plant.—A definition of "nonpool plant" is provided to facilitate formulation of the various order provisions as they apply to certain plants. A nonpool plant would mean a plant other than a pool plant that receives milk from dairy farmers or is a milk manufacturing, processing, or bottling plant. Specific categories of nonpool plants would be defined as follows:

(1) "Other order plant" is a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the act;

(2) "Producer-handler plant" is a plant operated by a producer-handler as defined in any order (including this order) issued pursuant to the act;

(3) "Partially regulated distributing plant" is a distributing plant that does not qualify as a pool plant and is not an other order plant, a producer-handler plant or an exempt distributing plant;

(4) "Unregulated supply plant" is a supply plant that does not qualify as a pool supply plant and is not an other order plant, a producer-handler plant, or an exempt distributing plant; and

(5) "Exempt distributing plant" means a distributing plant from which less than an average of 300 pounds of Class I milk per day, except filled milk, is disposed of in the marketing area during the month.

Handler.—The primary impact of an order is on handlers. A handler definition is necessary to identify those individuals from whom the market administrator must receive reports, and who have financial responsibility for payment of milk in accordance with order terms. As herein provided, the definition includes: (a) A person operating pool plants; (b) a cooperative association with respect to producer milk diverted for its account from a pool plant to a nonpool plant; (c) a cooperative association with respect to milk delivered from the farm to a pool plant in a tank truck under its control; (d) a person operating a partially regulated distributing plant; (e) a producer-handler; (f) a person in his capacity as the operator of an other order plant; (g) the operator of an unregulated supply plant, and (h) the operator of an exempt distributing plant.

To facilitate the diversion of milk to nonpool plants, a cooperative association is accorded handler status for milk it causes to be so diverted on its account from any pool plant to a nonpool plant.

A cooperative would be the handler also for any milk delivered from the farm to a pool plant in bulk in a tank truck owned and operated by, or under contract to, the cooperative association. Providing so will add flexibility to a cooperative's operations in allocating milk marketed by it to handlers. In this connection, the order recognizes in this and other relevant provisions that a cooperative association may, under the Capper-Volstead Act, market the milk of some producers who are not members of the association.

Producers proposed that a cooperative association be permitted to elect to be the handler on such farm bulk tank milk. Once milk from a producer has been commingled with milk of other producers in a tank truck, there is no further opportunity to measure, sample, or reject the milk of any individual producer whose milk is included in the load. A similar situation prevails when the milk of an individual producer is delivered in a tank truck to two or more plants. The operator of a pool plant to which bulk tank milk is delivered has an opportunity to determine only the weight and butterfat test of the total load.

If a tank truck picking up milk at the farm is operated under the supervision of a cooperative association, it is the association that determines the weight and butterfat content of each producer's milk. Handlers have no control and generally take no part in determining the weight and butterfat test of milk at the farm. In some instances, handlers may not even know from which farms their milk supplies are shipped. Accordingly, the order should provide that the cooperative be the handler on such milk.

The milk delivered by the cooperative as a bulk tank handler would be considered as a receipt of producer milk by the operator of the pool plant at which it was actually received. The pool plant operator's obligation for such milk to the producer-settlement fund, to the administrative fund, and to the cooperative association would be computed the same on such milk as for producer milk received directly from the farm of an individual producer.

Differences between the quantities of producer milk determined at the farm and ascertained as actually received by the operator of the pool plant would be considered a receipt of producer milk by the cooperative association handler at the location of the plant where the milk is actually received. For such differences the cooperative (instead of the pool plant operator) would be required to settle with the producer-settlement and administrative funds.

Producer-handler.—The term "producer-handler" should apply to any person who produces his own milk and operates a distributing plant from which there is route disposition in the marketing area. Also, for designation as a producer-handler, such person may not receive or acquire for distribution milk products from any source other than receipts by transfer from pool plants or other order plants within the limits prescribed herein.

When a person operates a dairy farm and a fluid milk processing business it has not been necessary under Federal orders to require him to account for milk so produced at a particular minimum price. The producer-handler assumes the burden of maintaining the necessary reserve supply of milk associated with his fluid milk operation and of disposing of any daily or seasonal surpluses he may produce.

Experience under Federal orders generally has demonstrated that effective regulation of the market has been insured without direct involvement of persons who produce, process, and distribute essentially milk of their own production and who buy no milk from other dairy farmers or from other sources except as provided in the order. Persons who assume a dual role of producer and handler and who must carry their own balancing supplies have no demonstrable advantage either as a producer or a handler.

Under the order provided herein a producer-handler is not permitted to supplement his own production with receipts from other producers. To permit a producer-handler to supplement his own production with receipts from other producers whenever his fluid milk sales exceed his own production would result in the pool producers bearing the burden of the surplus associated with such milk.

Neither is a producer-handler permitted to bottle milk for another producer-handler. Were this to happen both producer-handlers automatically would lose such status. The receipt of milk at the bottling plant would be considered a receipt from a producer and the milk packaged and sold would be considered as sold by a handler.

As long as he retains his exempt status, the only obligation imposed on a producer-handler by the order is to file reports with the market administrator and to permit their verification. The purpose of such reports is to permit the market administrator to verify that the operation continues to be one of a bona fide producer-handler. Such reports are nec-

essary regardless of the size of the producer-handler operation.

Under the order, contained herein, a producer-handler is expected to provide milk for his processing operation from his own farm production. However, he is permitted to buy fluid milk products from pool plants or other order plants during the month in an amount that does not exceed the lesser of 5 percent of his Class I utilization or 5,000 pounds. This limit is aimed at assuring that a producer-handler does not rely on the pool to balance the variation in his own production.

The provisions herein do not preclude a producer-handler from receiving and distributing nonfluid milk products such as butter, cheese, and ice cream which may be purchased from other sources. They would, however, prevent him from reconstituting nonfat dry milk for use as skim milk as beverages of any sort, including filled milk. An exception to this is that a producer-handler may use nonfat dry milk or other concentrates to increase the nonfat milk solids content of his fluid milk.

Receipts of milk at a pool plant from producer-handlers should be considered as other source milk. Otherwise, producer-handlers who do not share their own Class I sales by pooling would share in the Class I sales accruing to producers in the market. At the same time the producer-handler would not be bearing his proper share of the lower-valued reserve supplies associated with his Class I sales.

Various business arrangements, including superficial association with the milk production operation, may be used to acquire an appearance of true producer-handler operation. To preclude the use of such devices the order should provide that the producer-handler shall provide the market administrator the proof necessary to show that (a) the care and management of all the dairy animals and other resources necessary to produce the entire volume of fluid milk products handled is the personal enterprise of and at the personal risk of such person, and (b) the operation of the distributing plant is the personal enterprise of and at the personal risk of such person. A producer-handler would be required to make such reports of his receipts and utilization as the market administrator deems necessary to verify the status of such person's operation and to facilitate vertification of transactions with other handlers.

Producers proposed to limit producer-handler status to operations of not more than 300 pounds daily. This should not be adopted. No testimony was presented to show that the size of a producer-handler's operation per se, currently or potentially, would provide a cost advantage on Class I milk to such operation, or that such an operation handling more than 300 pounds of milk daily would be a disruptive factor in the market. Moreover, it was not established that exempting those persons handling more than 300 pounds of milk per day would affect adversely the competitive position of regulated handlers or producers. As indicated previously, a producer-handler in relying essentially on his own production to furnish his fluid milk sales must carry his own balancing supplies. In this circumstance, it is concluded that he has no demonstrable advantage either as a producer or a handler.

Producer.—Producer should mean any person (except a producer-handler) who produces milk in compliance with the inspection requirements of a duly constituted regulatory agency, whose milk is received at a pool plant, or diverted therefrom under certain conditions to a nonpool plant that is not a producer-handler plant. The producer definition will aid in making the necessary distinction between the production of those dairy farmers whose milk will be priced and pooled each month under the Lake Mead order and the receipts at handlers' plants from all other sources not to be pooled.

"Producer" should not include a dairy farmer whose milk is actually received at a pool plant as diverted milk from an other order plant when Class II or Class III classification under this order is designated for such milk and it is subject to the pricing and pooling provisions of another Federal order. Likewise, "producer" should not include the milk of any dairy farmer whose milk is diverted to an other order plant when such dairy farmer is designated as a producer with respect to such milk under the other order. Excluding such dairy farmers from the producer definition will insure inter-order coordination by eliminating the possibility that a dairy farmer will be a producer under two orders with respect to the same milk.

Also, "producer" should not include a dairy farmer whose milk is delivered during the month to a nonpool plant other than as diverted producer milk under the limits provided.

The Lake Mead market is so situated that a dairy farmer in California may be in a position to deliver milk in excess of his State quota to a plant regulated under the Lake Mead order. Proponents suggested that the producer definition exclude a dairy farmer who is a regular supplier for another market. Considering the size of the California market in comparison with the Lake Mead market, it is essential that the order provide safeguards against the influx of milk surplus to California's fluid market needs for temporary periods simply to share in the Class I sales of the Lake Mead market. A basic consideration of the order is that it promote orderly marketing for producers who are regularly associated with the Lake Mead market. Also, the regulation adopted herein provides protection for such producers from the disorderly marketing conditions that otherwise could result from surplus milk associated with the market. It is appropriate that such protection also be afforded from the surplus milk associated with unregulated plants in other markets.

Since the receipts from dairy farmers for other markets at a pool plant can be considered to represent surplus (Class III) production associated with the unregulated plant, such "other source" receipts should be allocated to the Class III classification at the pool plant.

Producer milk.—Producer milk is intended to include all milk that should receive the benefit of the minimum uniform price. Accordingly, it should be defined as all skim milk and butterfat contained in Grade A milk received at a pool plant directly from producers and milk of producers qualified under the diversion provisions.

When such milk is not needed in the market for Class I purposes, the movement of it to a nonpool plant for manufacturing purposes should be facilitated. It is necessary, however, to provide limits on the amount of milk that may be diverted in order that only that milk regularly associated with the market will be diverted when it is not needed in the market for Class I purposes.

Producers associated with this market are not expected to produce large quantities of milk in excess of the market's fluid needs. Diversion provisions are provided herein primarily to enable handlers and cooperative associations to divert producer milk on such occasions as weekends and holidays when the milk is not needed in the market for Class I purposes.

Diversion of producer milk to a nonpool plant by a cooperative association should be limited to 30 percent of the producer milk delivered to pool plants (including diverted producer milk) during the months of March through July and 20 percent thereof in the other months. Similarly, a pool plant operator (other than a cooperative association) should be permitted to divert milk of producers not otherwise diverted by a cooperative association, subject to similar diversion limits. Producer proponents proposed these diversion proportions, and they are appropriate in view of the relatively high Class I utilization of the market.

Only that milk regularly associated with the market should be eligible to be diverted to nonpool plants. At least 6 days' production of a producer should be received at a pool plant during the month to qualify any of his production in the same month for diversion. Such requirement is sufficient to establish a producer's association with the fluid market and still permit flexibility in diverting milk not needed for fluid use.

Milk diverted to nonpool plants in excess of the limits provided would not be considered producer milk. Hence, eligibility for pricing and pooling under the order would be forfeited on such excess. In such instances, it is necessary that the diverting handler specify which milk is ineligible as producer milk. If the handler fails to make such designation, thereby making it infeasible for the market administrator to determine which milk was overdiverted, all milk diverted to nonpool plants by such handler would be ineligible as producer milk.

Producer milk diverted should be priced at the location of the plant to which diverted. If such milk were priced at the pool plant from which diverted,

more distant producers would, in effect, be subsidized when their milk is diverted to distant manufacturing plants. This is because such producers would receive the f.o.b. market price as if their milk had actually moved to the market, but on which the transportation cost to the market had not been incurred. Thus, the pool price to all producers is reduced by the difference in prices for the two locations applied to the milk diverted.

Other source milk.—An "other source milk" definition should be provided in the Lake Mead order. In addition to milk received from producers, a handler may receive milk or milk products from other sources. The other source milk definition would implement the identification of various categories of receipts at a regulated plant.

Fluid milk products and bulk fluid cream products from any source other than producers, cooperatives acting as handlers on farm bulk tank milk, pool plants and plant inventories at the beginning of the month should be considered as other source milk.

Other source milk also 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 classification plan adopted herein. Although no handler obligation would apply under the order to the 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.

All manufactured dairy products from any source (including those produced at the plant) that are reprocessed, converted into, or combined with another product in the plant during the month should be defined 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 directly to the handler's Class II utilization and no handler obligation would apply under the order to such receipts.

Other source milk also should include any disappearance of manufactured milk products for which the handler fails to establish a disposition. 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 could 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.

(b) *The classification and allocation of milk.*—As proposed by producers, the order should provide for three classes of utilization.

The statutory authority for Federal milk orders specifies that an order shall classify milk in accordance with the form in which or the purpose for which the milk is used.

Class I milk.—Milk sold in the Lake Mead market for fluid consumption must be produced in compliance with the inspection requirements of various regulatory agencies. This is in contrast to the absence of such requirements on manufactured dairy products sold in the area, such as butter and hard cheese. Because of the extra cost of getting high quality milk produced and delivered to the market for fluid use in the condition and quantities required, it is necessary to establish a separate class for such milk to which a price considerably above the manufacturing milk price may be applied. This higher price must be at a level which, together with the prices applicable to the other classes, will yield a blend price to producers that will encourage the production of enough milk to meet the market's fluid needs.

Accordingly, the Class I classification adopted herein includes, with certain exceptions, those milk products processed for fluid consumption that must be made from inspected milk. Class I milk should include all skim milk and butterfat disposed of in the form of milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids. 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, Class I milk should include all skim milk and butterfat disposed of in the form of any other fluid or frozen milk product (if not specifically designated as a Class II or Class III use) 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.

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.

As a convenience in drafting order provisions, each product designated herein as a Class I product would be defined in the order as a "fluid milk product".

Class I milk should include also any skim milk and butterfat not specifically accounted for in Class II or Class III, other than shrinkage permitted a Class III classification.

Since this decision does not provide an 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 Class III sterilized 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. 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 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 milkshake mixes that "are not further processed in a commercial establishment" be in Class I. They proposed that all other milkshake mixes be in Class II.

Milkshake and ice milk mixes are marketed generally through two channels. Limited quantities of such mixes are processed for home consumption, with such mixes being distributed to consumers through foodstores and on home delivery routes. The major outlet for milkshake and ice milk mixes, though, is the so-called "soft-serve" trade. Mixes processed by regulated handlers for this use are sold to commercial establishments where the product is run through a special freezer and dispensed to the public in a semisoft form.

Milkshake and ice milk mixes are basically similar in composition and purpose to what might be considered as traditional frozen desserts, such as ice cream. Although such shake mixes are intended to be consumed in a semisoft form, or even in a very thick fluid form, they are marketed for essentially the same use as the traditional frozen desserts. This is the case whether such mixes are sold through the "soft-serve" trade or for home use. With minor exception, as noted below, milk used in milkshake and ice milk mixes thus should be classified in the same class as milk used in the traditional frozen desserts. As discussed later in this decision, the classification plan adopted herein includes frozen desserts in Class III.

It is possible that a product very similar in composition and form 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 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 similar in composition to chocolate milk and other flavored fluid milk products and should be a Class I product.

Cooperatives, in representing producers, proposed that the amount of a modified fluid milk product that is classified as Class I milk be the actual weight of the modified product rather than the weight of a like unmodified product, as adopted herein and as commonly provided under other Federal orders. Their proposed procedure, relative to that adopted herein, would increase slightly the quantity of a modified product priced in Class I.

The Lake Mead order would provide for the accounting of all nonfat dry milk or condensed skim milk used by a handler on a skim milk equivalent basis. Such products are ordinarily derived from unpriced milk or milk that has been priced as surplus milk under a Federal order. An economic incentive would exist for handlers to substitute, where possible, reconstituted skim milk in Class I products for an equivalent amount of producer skim milk. Full skim milk equivalent accounting is thus necessary in applying the order's classified price plan to such types of other source milk.

Handlers may add concentrated nonfat milk solids to a Class I product to increase the product's palatability. Such modification of the Class I product, in contrast to reconstitution, increases the volume of the product only slightly. Any displacement of producer milk in Class I in this case is limited to this minor increase in the volume of the modified Class I product. Thus, the quantity of a modified fluid milk product to be classified in Class I should be limited to the weight of an equal volume of an unmodified product of the same nature and butterfat content. Any greater amount is unnecessary in protecting the classified price plan for producers.

Fluid milk products should not be defined only on the basis of product composition, as was proposed by cooperatives. Contending that conventional fluid milk product definitions that list products by name do not identify clearly those products intended to be in Class I, cooperatives proposed that a fluid milk product be defined solely 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 but less than 27 percent nonfat milk solids, less than 9 percent butterfat, and more than 20 percent moisture, all computed on the basis of weight.

In support of their proposal, proponents contended that the listing of products under a fluid milk product definition does not accommodate the proper classification of new products or variations of the listed products when they are introduced on the market. They pointed out that the market administrator would have to make order interpretations in response to this situation. Adoption of their proposed definition, it was contended, would eliminate such problems because 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.

For simplicity, the fluid milk product definition should list the generic names of those products commonly sold for consumption as beverages. The products listed in the definition provided herein encompass most of the forms in which milk for fluid uses is sold. Anyone referring to this fluid milk product definition may easily ascertain, in the case of most milk products, whether a particular product is included in the definition.

A listing of products alone in the fluid milk product definition may not clearly indicate 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 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 composition standards proposed herein would embrace any fluid or frozen milk 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. The 9 percent butterfat standard coincides with the butterfat percentage provided 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 which contain some milk solids but which are not closely identified with the dairy industry, such as chocolate flavored drinks in "pop" bottles.

These composition standards are provided so as to conform as closely as possible to the water, solids, and butterfat content of those products specifically listed in the fluid milk product definition, i.e., the traditional milk beverages. It is intended that these standards apply only to milk products, and only to such products that are being marketed for consumption in fluid form. Such standards would not be applied to products such as soups, which are not customarily thought of as milk products, or to products that would be a type of frozen dessert marketed for consumption in frozen form.

In determining whether a milk product is covered by the composition standards of the fluid milk product definition, such standards should be applied to the composition of the product in its finished form. A product may be modified by the addition of nonfat milk solids or concentrated through the removal of water. In these cases, the composition standards should be applied to the composition of the product as it is marketed, not to the composition of the product on a skim equivalent basis. Application of the composition standards on the latter basis could result in defining as a fluid milk product a product clearly not intended as a milk beverage. For all other purposes under the order, however, the product should be accounted for on a skim equivalent basis.

The use of composition standards as a means of defining fluid milk products would not deter the development of new milk products. Should the Class I classification of a new product appear to be incongruous with the intended use of the product, the hearing process remains as an avenue through which a different classification may be considered.

Class II milk.—Class II milk should include all 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.

Cooperatives proposed that the Lake Mead order provide for an intermediate classification (Class II). The proposed Class II uses would include cottage cheese, any other cheese containing more than 50 percent moisture, cheese dips, ice cream, frozen desserts, milkshake mixes for further processing in commercial establishments, eggnog, yogurt, evaporated or condensed milk or skim milk, dietary and infant formulas, custards, puddings, pancake mixes, and any prod-

uct with 6 percent or more nonmilk fat (or oil). In addition, Class II also would include mixtures of cream and milk, or skim milk containing 9 percent or more butterfat, cream in plastic, frozen, aerated, or sterilized form, sour cream, sour mixtures, and anhydrous milkfat.

In support of their proposed Class II classification, proponent cooperatives indicated that of the products not included in Class I all but the so-called "hard" products (butter, dried products, and certain hard cheese) should be included in Class II. They stated that these proposed Class II products, unlike the hard products, are less storable and thus produced only in response to current demand. In addition, proponents claimed that handlers in the market normally rely on Grade A milk for the proposed Class II products. Proponents contended that for these reasons producer milk used in such Class II use should be priced at a level somewhat above the price applicable to milk disposed of in the residual Class III uses.

Of the products adopted herein for inclusion in Class II, the one of major importance is cottage cheese. There are several distinguishing characteristics of cottage cheese production that support a higher price for milk in this use than for milk channeled into the residual surplus uses. There is little, if any, relationship between the quantity of cottage cheese made and the amount of reserve milk in the market, as is the case with respect to butter and nonfat dry milk for instance. Unlike such other manufactured products, cottage cheese has more limited storage life and must be processed on a regular basis. Thus, as in the case of fluid milk products, handlers generally want adequate supplies of fresh, high-quality producer milk to be available at their plants for cottage cheese use.

Milk used in yogurt should be priced at the Class II price. Yogurt, which is a soft, nonfluid, "spoonable" product, has some of the marketing characteristics of cottage cheese. Although yogurt can be made from cream and nonfat dry milk, processors generally prefer 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. As in the case of cottage cheese, 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.

Class II should not include yogurt flavored frozen desserts. Frozen desserts containing milk cultured with the lactic acid producing bacteria used in yogurt may be marketed in such forms as sherbet mix for the "soft-serve" trade, yogurt cones, and chocolate covered frozen yogurt on a stick. These products compete with other frozen desserts and thus should be classified in the same Class III classification provided herein for such other frozen desserts.

Class II milk also should include eggnog. Although eggnog is prepared for use as a beverage it should not be a Class I product because of competition from imitation products. Eggnog has a relatively high butterfat content and the limited sales of the product are highly seasonal. A substantial portion of the marketings of this type of product is in the form of imitation eggnog. Classification of eggnog in Class II rather than Class I will materially enhance the competitive position of the product in the marketplace.

With the establishment of an intermediate price class under the Lake Mead order, it is appropriate that any "filled" product containing 6 percent or more nonmilk fat (or oil) that resembles 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.

The adopted Class II classification for cream products should enhance their competitive position in the Lake Mead market relative to nondairy substitutes. Cream products sold by Nevada handlers are now priced at the same level as other Grade A fluid products. In recognition of the competitive inroads on cream sales by substitute products, however, cooperatives proposed that milk used in cream products be considered as a Class II use. Provision for this classification in the order will accommodate the desire of dairy farmers with respect to the returns from their milk.

In this connection, it is desirable to define in the order a "fluid cream product." "Fluid cream product" would mean 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.

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 dry 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 I product).

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. 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 adopted Class III classification includes several uses for milk that cooperatives included in their proposed Class II classification. As discussed below, a higher price should not apply to such uses.

Frozen desserts (including commercial milkshake and ice milk mixes), dietary and infant formulas, custards, puddings, pancake mixes, candy, soups, and other food products are made in varying degrees from concentrated forms of milk. Condensed milk or skim milk, nonfat dry milk, dry buttermilk, dry whey, butter, plastic cream, or frozen cream, for example, may be used, often interchangeably or in combination, in the processing of such products. Because of processing techniques and product formulations, milk in its whole, fluid form does not lend itself to the processing of these various manufactured products. Thus, a milk plant operator or other food processor using producer milk in such products first would have to concentrate the milk before making the finished product. Moreover, such products are relatively storable and can be made in the flush milk production months for sale during the low production months.

When the cost of converting producer milk into a concentrated "intermediate" product is considered, such milk priced 15 cents over the Minnesota-Wisconsin price, the Class II price adopted herein, would not be competitive with concentrated dairy products from other sources. Such concentrated products need not be made from Grade A milk. In addition, handlers could use dried products made from producer milk priced under the Lake Mead order. As provided herein, milk used to produce such dried products would be priced at the Minnesota-Wisconsin price.

Condensed milk or skim milk, plastic cream, frozen cream, and anhydrous milkfat are "intermediate" products that also should be included in the lowest classification. These products are normally used in making other products, primarily frozen desserts and food products such as candy. Under the classification plan adopted herein, frozen desserts and food products are Class III uses for milk. Accordingly, producer milk used in the several intermediate products likewise should be priced at the Class III level.

A Class III classification for producer milk used in evaporated milk will permit this use to remain as a competitive outlet for milk surplus to the needs of the Class I market. Evaporated milk must compete in a national market with evaporated milk processed from another graded or ungraded milk that is often priced at no more than the Minnesota-Wisconsin price.

All cheese products other than cottage cheese, lowfat cottage cheese or dry curd

cottage cheese should be included in Class III. No distinction should be made for classification purposes between "hard" cheeses containing varying amounts of moisture. Although the cooperatives' proposed order provisions made such a distinction (hard cheese containing 50 percent or more moisture would be a Class II product), proponents did not provide any economic justification for such classification. It cannot be concluded from this record that producer milk used in "high" moisture hard cheese would have any significantly greater value to regulated handlers than milk used in cheese with a lesser moisture content.

Classification of shrinkage.—The Lake Mead order should contain provisions for classifying skim milk and butterfat in shrinkage.

Basically, the shrinkage provisions adopted herein are similar to the shrinkage provisions now provided in most Federal milk orders.

The commonly used method of prorating total plant shrinkage to (1) those kinds of receipts on which the shrinkage limitations apply, and (2) other receipts, principally other source milk in the form of fluid milk products requested for Class II or Class III use, is provided herein. To the extent that the quantity of shrinkage prorated to the first category exceeds the established limit, the excess would be classified in Class I.

The shrinkage provisions provided herein recognize that shrinkage normally varies with the type of handling involved. More loss is usually experienced in plant processing than in merely receiving milk for delivery to another handler. Thus, 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 would be 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.

The provisions adopted herein are designed to carry out the appropriate division of shrinkage whether the plant operator purchases the milk at farm weights and tests or at plant weights and tests. The provisions allow the plant operator up to 2 percent shrinkage in Class III if he buys the milk on the basis of weights determined at the farm and butterfat tests determined from farm bulk tank samples. In this case, there is no shrinkage allowance for the cooperative association delivering the milk.

As provided herein, when a plant operator disposes of bulk milk by transfer to another plant, his shrinkage allowance would be reduced at the rate of 1.5 percent of the quantity transferred. This is similar to provisions now applicable under most orders.

In the case of milk diverted from a pool plant to another plant, a shrinkage allowance in Class III of 0.5 percent would be provided the diverting handler if the operator of the plant to which the milk is diverted purchases such milk on the basis of weights and tests determined at the plant. If the milk is purchased at farm weights and tests, no shrinkage allowance would apply for the diverting handler. This is the same procedure applicable to cooperative bulk tank deliveries to pool plants when similar handling is involved.

This kind of division of the 2 percent shrinkage allowance, both in the case of transfers from cooperatives to plants and for transfers between plants, has been found practical and has been well accepted in Federal order markets where it now applies.

Shrinkage should be accounted for on an individual plant basis under the Lake Mead order. Such procedure would promote plant efficiency in the Lake Mead market.

Classification of milk transferred or diverted to other plants.—Some fluid milk products or fluid cream products may be disposed of to other plants. It is necessary, therefore, to provide specific rules so that the classification of such movements may be determined under this order.

Under the classification plan provided herein, 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. Thus, it is necessary that fluid cream products that are transferred in bulk form from a pool plant to another plant be classified in a manner similar to that used in classifying transfers of bulk fluid milk products.

Some skim milk or butterfat may be transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant. Such transfers should be classified as Class I milk unless both handlers request the same classification in another class in their monthly reports to the market administrator and sufficient Class II or Class III utilization is available at the transferee-plant after the allocation of its receipts of other source milk. If the shipping plant received other source milk in the form of nonfat dry milk, for example, during the month, the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to the other source milk. If the shipping handler received other source milk from an unregulated supply plant or an other order plant, the transferred quantities, up to the total of such receipts, should not be Class I to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee-plant.

The provisions governing transfers between pool plants described herein will contribute to obtaining the best possible utilization of producer milk. Such provisions will tend to insure that producer milk used in Class I will not be classified in a lower class when interplant shipments involve a pool plant with receipts of other source milk. Unless such safeguards are provided, a high-utilization plant could be used as a conduit for assigning milk obtained from nonpool sources for manufacturing purposes to a higher utilization (at the expense of producer milk) than it would receive by direct delivery to the plant at which it is actually utilized.

Skim milk or butterfat may be transferred or diverted from a pool plant to an other order plant in the form of a fluid milk product or transferred from a pool plant to another order plant in the form of a bulk fluid cream product. The classification of such transfers or diversions shall apply only to the skim milk and butterfat in excess of any receipts at the pool plant from the other order plant.

The Lake Mead order should provide 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 Lake Mead market.

Fluid milk products transferred or diverted to other order plants and bulk fluid cream products transferred to such plants will be classified in accordance with the classes to which such milk is allocated under the other order. If information concerning the classification of transfers and diversions is not available to the market administrator in time to compute handler pool obligations, such transfers shall be classified in Class I, subject to adjustments when the information is available. In addition, the order should provide that if the other order provides for a different number of classes than the Lake Mead order, skim milk and butterfat allocated to a class consisting primarily of fluid milk products shall be classified in Class I and skim milk and butterfat allocated to other classes shall be classified as Class III milk. The order also provides that if a fluid milk product is transferred to an other order plant and such product is not defined as a fluid milk product under the other order, classification of such transfer shall be in accordance with the classification provisions of this order.

The order should prescribe a method for classifying the skim milk and butterfat in transfers from a pool plant to a producer-handler. If such skim milk and butterfat is in the form of a fluid milk

product, such transfers should be classified as Class I milk. As described elsewhere in this decision, such a classification is necessary to assure that producers are not burdened with maintaining reserve supplies associated with the Class I sales of producer-handlers.

Skim milk and butterfat in the form of 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.

The order also must prescribe a procedure for classifying transfers or diversions to a nonpool plant that is not an other order plant or a producer-handler plant. Bulk fluid milk products transferred or diverted and bulk fluid cream products transferred should be classified as Class I milk unless a lower classification is requested and the operator of the nonpool plant makes his books and records available to the market administrator for the purpose of verifying the receipts and utilization of milk and milk products in the nonpool plant. To determine such lower classification, the nonpool plant's utilization must be assigned to its receipts of milk from various sources.

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 Lake Mead marketing area, and any transfers of packaged fluid milk products from the nonpool plant to Lake Mead pool plants, would be assigned, first, to the nonpool plant's receipts of packaged fluild milk products from plants fully regulated under the Lake Mead 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 the Lake Mead order and, second, to any such remaining receipts from plants fully regulated under other orders.

Any remaining 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.

The method herein provided for classifying transfers and diversions to nonpool plants accords equitable treatment to order handlers and also gives appropriate recognition to handlers in other regulated markets in the classification of milk transferred to a common nonpool plant. Giving highest use priority to dairy farmers directly supplying a nonpool plant recognizes that they are the regular and dependable source of supply of milk for fluid use at such plant. The proposed method of classification will safeguard the primary functions of the transfer provisions of the order by promoting orderly disposal of reserve supplies and in assuring that shipments to nonpool plants will be classified in an equitable manner.

Allocation of receipts to utilization.—Because the value of producer milk is based on its classification, the Lake Mead order must provide a procedure for assigning a handler's receipts from different sources to his utilization for the purpose of establishing such classification.

The system of allocating handlers' receipts to the various classes should be basically the same as that adopted in the decision issued June 19, 1964, for 76 milk orders integrating into each order's regulatory plan milk which is not subject to classified pricing under any order and receipts at pool plants from other order plants. Official notice was taken of that decision at the hearing (29 FR 9002). That decision provides a procedure for allocating over a handler's total utilization his receipts from all nonpool sources and for making payment into the producer-settlement fund on unregulated milk allocated to Class I.

Producers testified that the method developed for all Federal milk marketing orders as a result of the June 19, 1964, decision is appropriate in the Lake Mead marketing area and will coordinate these regulations with respect to the treatment of unregulated milk and other order milk with comparable regulations under other Federal orders.

The aforesaid decision sets forth the standards for dealing with unregulated milk under Federal orders and the system of allocation to be included in all orders. It describes the appropriate treatment of other order milk received at pool plants so as to coordinate the applicable regulations on all movements of milk between Federal order markets. This record indicates that the findings and conclusions of the aforesaid decision are equally applicable under current conditions in the proposed marketing area.

Cooperatives proposed that all other source milk (fluid and nonfluid) be allocated to Class III, regardless of how such milk actually is used. Under this procedure, producers who are relied upon to furnish a regular supply of milk for the local fluid market receive the highest possible classification of their milk.

The Lake Mead order should provide that handlers using certain types of other source milk (whether in the form received or in reconstituted form) in the processing of Class II products be permitted to have such other source milk allocated directly to their Class II uses. Under the classification plan provided 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.

As pointed out elsewhere in this decision, the establishment of an intermediate class is supported by the fact that handlers rely largely on producers for a regular supply of milk for the products herein included in Class II. 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. On occasion, when producer supplies are short, handlers also may reconstitute nonfat dry milk for cottage cheese production. Condensed milk or 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.

It is not intended that the Class II outlet for producer milk necessarily be reserved for local producers. This use

class merely recognizes that some additional value attaches to producer milk used by regulated handlers in the Class II products. Pricing this milk at a level above the Class III price serves also to reduce the burden on the Class I price of attracting a supply of producer milk for Class I market. It is not intended that producer returns be enhanced for the purpose of also attracting a full supply of producer milk for handlers' Class II uses. Accordingly, no obligation to the pool (commonly known as a compensatory payment) would be imposed on any other source milk which regulated handlers may use in Class II or on any Class II products that may be distributed in the market by nonpool plants, either directly on routes or through pool plants.

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. As indicated elsewhere, this would be so with respect to the alternative use of nonfat dry milk, the type of other source milk most commonly used in the proposed Class II products. 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 of 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 which 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 to Class III.

It should be noted that 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.

The attached order provides that for purposes of allocating a multiple-plant handler's receipts to his utilization the operations at each of his pool plants shall be considered separately. In accordance with the "compensatory payment" decision referred to earlier, however, certain receipts of milk from unregulated supply plants and other Federal order plants are to share in varying degrees with local producer milk in the receiving handler's Class I utilization at all of his pool plants combined. The order therefore provides a procedure whereby the milk from unregulated supply plants and other order plants is classified on the basis of the handler's total system, but is assigned to classes at the pool plant of actual receipt. Under this procedure, the situation may arise where there is not enough utilization in a specific class at the plant of actual receipt to which such other source milk must be assigned (as determined from receipts and utilization of his entire system). In this case, an accounting technique is used for increasing the utilization in such class at the plant of actual receipt and making a corresponding reduction in the same class at one or more of his other pool plants in his system. This technique does not result, however, in changing the amount of milk to be accounted for at each plant, or the classification of milk within the handler's entire system.

Proponent cooperatives contended that receipts should be allocated to utilization on a product pound basis rather than on a skim milk and butterfat basis as provided under most other Federal milk orders. Producers stated that with a single butterfat differential applicable to all classes there is no need to allocate butterfat separately to the various classes. This decision provides a different value for butterfat used in Class I than for butterfat used in Class II or Class III. Therefore, the Lake Mead order must provide that the accounting be done on a skim milk and butterfat basis.

Classification of end-of-month inventory.—The Lake Mead order should provide for the classification of inventory on hand at the end of the month. Fluid milk products in either packaged or bulk form that are in a handler's end-of-month inventory should be classified as Class III milk. Ending inventory of fluid cream products, eggnog and yogurt, when held in bulk form, likewise should be classified in Class III. Such products held in packaged form at the end of the month should be classified as Class II milk.

Inventories classified in Class III should be subject in the following month to reclassification in a higher class, as determined through the allocation of a handler's receipts to his utilization. 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.

Because of the regulatory treatment being accorded certain other source milk, it is necessary that fluid cream products, yogurt and eggnog on hand in packaged form at the end of the month be classified in Class II, the class of expected ultimate use, rather than in Class III as would be the case for ending inventories 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 next month, would be allocated in such month directly to the handler's Class II utilization.

For the first month the order is in effect, a slightly different classification of inventory must apply. 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 order, 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 in the following month if a higher classification results.

(c) *Class prices.*—In order to promote and maintain orderly marketing conditions for the Lake Mead market, minimum class prices for producer milk must, under section 608c(18) of the act, be established at levels that reflect economic conditions affecting the market supply and demand for milk, and tend to maintain a supply of milk sufficient to meet the fluid needs of the market plus a reserve to provide for daily fluctuations in demand.

The Class I price must not be so high as to attract unneeded supplies to the market. If it were, it would tend to result in unnecessary surplus. On the other hand, the price should be sufficiently high to encourage the production of the quantity of high quality milk required for the fluid needs of the market plus an adequate reserve.

The Class II price should be high enough above the manufacturing price to compensate producers for a least a part of the cost of delivering sufficient Grade A milk to meet the needs of handlers for cream, cottage cheese, and related items for which Grade A milk is used.

The Class III price must be fixed at a level that will insure a market for milk produced in excess of the Class I and Class II requirements of the market, but high enough to discourage association with the pool of additional Grade A milk simply for use in manufactured dairy products.

Class prices, as well as uniform prices to producers, should be computed and

announced on a 3.5 percent butterfat content basis. This will conform to prevailing practice in the market.

Class I priced.—For an 18-month period beginning with the effective date of the order, the Class I price should be computed each month by adding $1.60 to the basic formula price (Minnesota-Wisconsin manufacturing milk price for the second preceding month). For the purpose of computing Class I prices, however, the basic formula price should be not less than $4.33. This will insure that the present basic formula price (floor price) in other Federal order markets will be the same in this market.

The price for milk used for fluid purposes in the marketing area has a direct relationship to the price paid for milk used for manufacturing purposes. The basic formula price used in determining the price for Class I milk gives appropriate consideration to the economic factors underlying the general level of prices for milk and manufactured dairy products. The differential over manufacturing milk prices is necessary to cover the added cost of meeting quality requirements in the production of milk for fluid uses and the cost of moving it to the market. Dairy farmers must have incentive, over the price of milk for manufacturing uses, to produce and deliver an adequate supply of quality milk to meet the market's demand for milk in fluid form.

Proponent cooperatives proposed the Minnesota-Wisconsin manufacturing milk price as the basic formula price. This price is an average of prices paid at a large number of manufacturing plants in the two States. Plant operators report the total pounds of manufacturing grade milk received from dairy farmers, the total butterfat content, and the total dollars paid to dairy farmers for such milk, f.o.b. plant. These prices are reported on a current month basis and the Minnesota-Wisconsin price is announced for each month on or before the fifth day of the following month. The Minnesota-Wisconsin price is the basic formula price in all other Federal order markets also, including the Central Arizona and nearest federally regulated markets to the Lake Mead area.

This price for raw milk delivered by farmers is determined by competitive conditions and reflects general economic conditions affecting the supply and demand of milk for manufactured milk products marketed through a highly coordinated marketing system, which is national in scale.

As previously stated, the basic formula price would be the Minnesota-Wisconsin pay price for the month second preceding that to which the Class I price applies. On the fifth day of each month, the market administrator would announce publicly the Class I price for the following month. This procedure is now used in Federal orders generally.

Producer proponents proposed the formula adopted. At the time of the hearing (October 1972) this would have yielded a Class I price of $6.67 per hundredweight for milk containing 3.5 percent butterfat content and for April 1973 a Class I price of $7.05. This compares with a Class I price of $6.48 established by the Nevada Dairy Commission for milk (of 3.5 percent butterfat content) produced in Nevada and used as Class I milk in the southern Nevada (Las Vegas) market in October 1972. Official notice is taken that the latter price is still in effect.

Proponents contended that their proposed Class I price is necessary to reflect supply and demand conditions for milk in the Lake Mead area and to assure the market of a sufficient supply of pure and wholesome milk.

Local conditions of supply and demand for fluid milk in southern Nevada, a principal segment of the designated marketing area, are affected by the fact that the Nevada Dairy Commission, which regulates the handling of Nevada milk in the southern Nevada area, is unable to price out of State supplies. While a major concern of such regulation is to maintain orderly marketing conditions for fluid milk distributed in the southern Nevada (Las Vegas) market, the jurisdiction of the Commission does not reach to supplies from other States.

During 1970, about 83 million pounds of milk were used in the southern Nevada market. Only 65 percent of this was accounted for by Nevada production. For 1971, about 63 percent of the milk supply for the Las Vegas area was furnished by Nevada dairy farmers. Nevada producers supplied 54.9 million pounds of milk to the market in 1970, and 52.5 million pounds in 1971. Additional supplies for the market have come primarily from Utah producers, who, along with Nevada producers, pointed to unsatisfactory prices and the absence of an overall plan for distributing returns to all producers as the basis for this proceeding.

The market is a relatively "tight" market in terms of supply in relation to the need for fluid milk. For 1971, 89 percent of the milk under the jurisdiction of the Nevada Dairy Commission in this market was used in fluid milk products (Class I). Utah milk in the market was said to have been paid for on an 80–20 basis, with 80 percent of the milk supplied being used in Class I. On this basis, overall market Class I utilization in 1971 was about 86 percent of the total receipts of producer milk. The remaining 14 percent that was used in Class II and Class III represented the reserve supply for the market, most of which is used for cottage cheese and ice cream.

For purposes of insuring an adequate supply to the Lake Mead market, the Class I price applicable at Los Angeles, Calif., is relevant. The main alternative supply area for the Lake Mead market is situated between Los Angeles and Las Vegas. Much of the milk supply produced there is assembled in the Bakersfield, Calif., area, and can move readily either to Los Angeles or Las Vegas as the relative prices dictate.

A hearing was held by the State of California authorities in Sacramento, Calif., on January 3, 1973. Following that hearing the California minimum price for the Southern Metropolitan area (Los Angeles) was set, effective February 1, 1973, at $6.77 per hundredweight for Class I milk testing 3.5 percent butterfat. Official notice of that hearing and decision is taken at this time because such price affects the value of milk produced in the Bakersfield area, which is significant to consideration of the price needed in the Lake Mead market to insure an adequate supply.

The Los Angeles Class I price applicable at Bakersfield is $6.57 ($6.77 minus $0.20). Bakersfield is 286 miles from Las Vegas. At a hauling rate of 1.5 cents per 10 miles (equivalent to the location adjustment discussed elsewhere herein) it would cost about 43 cents to transport milk to Las Vegas from the Bakersfield area. For April 1973, the Lake Mead Class I price adjusted for the Bakersfield location would be $6.62 ($7.05 minus $0.43), only 5 cents more than the Los Angeles price for that location. Thus, if production of local producers falls short, the Lake Mead market still will be in a position to obtain alternative supplies without greatly increased cost.

The Class I price level currently provided for the southern Nevada market, and the lack of uniform application of prices to all handlers in the market have resulted in unrest among both Nevada producers and Utah producers who initiated this proceeding. Continuance of the present price situation, particularly in the face of the recent California Class I price increase, would not provide assurance of an adequate supply for the Lake Mead market. It is concluded that the Class I price level provided herein is needed to insure an adequate supply of milk for fluid use in the Lake Mead area.

Producers' proposal would limit the Lake Mead Class I price to not more than $7.22 per hundredweight during the first 18 months the order is effective. Such limit was intended to reflect the Los Angeles Class I price plus a hauling allowance to the Las Vegas area. As previously stated, the Class I price formula provided herein would have resulted in a price of $7.05 for Class I milk for April, or 17 cents under the limit proposed by producers. However, the Lake Mead Class I price differential will be effective only for the first 18 months in which the order is fully effective. It is appropriate that the Class I price structure be reexamined at a public hearing for possible adjustment after the accumulation of data relative to milk supplies and sales. Accordingly, a "ceiling" on the Class I price is not required. In any event, if an earlier reconsideration of the price level is deemed appropriate, a hearing is the proper forum. Therefore, the proposal for the proposed ceiling price is denied.

Class III price.—The Class III price should be the basic formula price for the month, as proposed by producer proponents.

As proposed by proponents, and as stated earlier in this decision, the Lake Mead order should provide two classes of utilization for milk not needed for

Class I purposes. Before discussing the pricing of milk in the intermediate class (Class II), consideration will be given to the Class III price because the level of such price bears on the appropriate Class II price level.

Reserve milk disposed of in manufactured product uses should be priced at a level to result in orderly disposition of all excess supplies, but yet to maximize returns to producers from the values obtained in manufactured product disposition. Establishment of a price too high to clear the market of milk excess to fluid requirements would interfere with the orderly marketing of milk and encourage the use of other, more distant sources of milk, instead of producer supplies. Fixing a price too low would encourage handlers to associate additional supplies with the market simply to obtain low cost milk for manufacturing uses.

It is the returns from all classes of milk that provide farmers the incentive to produce the needed milk supplies. Consequently, to the extent that the price for reserve milk in the market contributes less than its full market value to producers' returns, the other class prices must be higher than otherwise necessary to make up the difference. Accordingly, it is appropriate that the reserve milk supplies be priced at the highest practicable level consistent with the orderly disposal of the milk.

The Minnesota-Wisconsin price meets the aforesaid conditions for pricing Class III milk. It is an average of prices being paid farmers by processors of butter, nonfat dry milk, and cheese who are meeting the competitive test of the unregulated marketplace. Use of the Minnesota-Wisconsin pay price series not only maintains a reasonably consistent basis of pricing surplus milk among the federally regulated market, but also achieves price parity between regulated and unregulated plants engaged in a similar enterprise since it provides the regulated manufacturer essentially the same margin for processing as is experienced in the unregulated market. Such price is widely used as a surplus price determinant under many Federal milk orders, such as the Great Basin market, which is located in this general region.

At the hearing, the witness for proponent cooperatives stated that the Class III price, like the Class I price, should be established as an interim price, for the first 18 months the order is effective. Proponents contended that an 18-month trial period, is necessary because a decision on pricing surplus milk under 40 Federal milk marketing orders is pending.

Since the Class III price proposed herein will reflect the value of milk being disposed of for manufacturing in open competitive markets, there is no purpose to be served in adopting the limit proposed by proponents. Should the need arise to reconsider a different basis for pricing Class III milk, hearing procedure is the appropriate forum for this purpose.

The Lake Mead market is characterized by a relatively high Class I utilization. It is anticipated that Class III utilization may be very minor, and concentrated in ice cream and cheese manufacture. Both of these products yield relatively high returns compared to butter and nonfat dry milk.

Class III disposition for the market that is used in hard cheese will probably be manufactured at a cheese plant at Beaver, Utah. Cheese produced at this location is sold in competition with cheese produced in other sections of the country. Ice cream is manufactured in some of the Las Vegas plants that would be pool plants. The Class III price should reflect the value of milk for these higher-valued dispositions.

Under the regulations of the Nevada Dairy Commission, the February 1973 price applicable to milk used in Class III in the southern Nevada marketing area was $4.86. During the same month, milk used to manufacture cheese, butter, and nonfat dry milk was priced at $5.25, and milk used in ice cream was $5.85, in the Los Angeles market. Also, manufactured products, such as hard cheese priced on the basis of the Minnesota-Wisconsin price ($5.45 for February) under the Great Basin order, compete in this general region. Thus, the value of milk used in competing manufactured products is considerably higher than the price established for such uses in the Las Vegas area. It is concluded that the higher price provided herein will assure that producers supplying the Lake Mead market will receive the full value of their milk when utilized in Class III.

Class II price.—The price for Class II milk should be the basic formula price for the month, plus 15 cents. During 1972, this price would have averaged $5.23. The Class II price provided herein, which was proposed by proponents, will obtain for producers some extra return for producer milk used in Class II products above its value in other manufactured dairy products.

A principal outlet for Class II milk in the Lake Mead market is cottage cheese, which is frequently produced in conjunction with fluid milk packaging operations. The producers supply Grade A milk for use in cottage cheese in the southern Nevada market perform a service by delivering such high quality milk to handlers' plants on a regular and continuing basis as required by the handlers. On such basis, there is some additional value for milk supplied to handlers for use in cottage cheese at distributing pool plants. Such value should be reflected in returns to producers.

The Class II price provided herein is not at such level, however, that will induce handlers to substitute alternative supplies for producer milk in this outlet. If producer milk for cottage cheese use were not available, the cost of procuring equivalent milk ingredients from outside sources would be higher than if obtained from local producers. Milk used to produce cottage cheese is priced in Class II under the California State regulation. The price applicable to such milk in the Los Angeles market for February 1973 was 5.83. This compares with a price of 5.60 that would have been applicable to such milk under the Lake Mead order.

Location adjustments.—The order should provide for location adjustments. Such adjustments are the amounts by which the Class I price and the uniform price for milk are reduced for milk received at plants located some distance from the major consumption center of the market.

As provided herein, no location adjustment would apply to plants situated within 40 miles of the Clark County Courthouse in Las Vegas. A location adjustment based on 1.5 cents per 10 miles or fraction thereof would apply on milk received at plants located more than 40 miles from such courthouse. The applicable distance for determining location adjustments would be measured by the shortest hard-surfaced highway, as determined by the market administrator.

Producer proponents proposed the location adjustment provisions provided herein, except that their proposal called for a location adjustment of −10c/cwt for any plant located more than 40 miles but not more than 50 miles from such courthouse.

Provision for location adjustments is an integral part of pricing milk under Federal milk orders. The adjustments recognize differences in the economic value of milk for fluid processing in the market when it is received at distant plants and then shipped to plants at the market center as compared to being originally received from farmers at the latter plants.

While St. George and Cedar City are included within the defined marketing area, Las Vegas is the major market center for milk processing and distribution. The former localities are at distances of 125 and 176 miles from Las Vegas. The great bulk of the urban population in the Lake Mead marketing area is located within a radius of 40 miles of the Clark County (Nev.) Courthouse.

Fluid milk, being bulky and perishable, incurs a relatively high transportation cost. When milk for this market is received from the farm at a plant located a considerable distance from Las Vegas, the handler rather than the producer incurs the additional cost of moving that milk from the outlying plant to Las Vegas, where most of the supply is processed. Under these conditions, and in the absence of a higher-priced alternative market for the producer, the economic value of producer milk delivered to a plant located at a distance from Las Vegas is reduced in proportion to the distance therefrom and the cost of transporting such milk from the plant of first receipt to the plant at the market center. Location adjustments also reflect the lesser value (place utility) of the producer's milk when it is diverted from the farm to an outlying plant for manufacture in lieu of being brought to the market center.

Location adjustments assist further in carrying out the statutory requirement of uniformity in prices to all handlers since, by their application, all handlers purchase their Class I milk at the same minimum price f.o.b. the market center. The handler buying in this manner thus owns his milk under the order at the same minimum Class I price f.o.b. market as the handler receiving milk from an outlying plant. Since location adjustments apply only to plant locations, no adjustment is applicable when the milk is received directly from the farm at the processing plant at the market center. The transportation, or hauling, cost to the market on the latter milk is paid for by the individual producer.

Adjustments to the producer blend price are made at the same rate as are the adjustments to the price for Class I milk. This provides an equitable means of distributing among producers the proceeds from the sale of their milk delivered to plants located at varying distances since to be eligible for Class I (fluid) use in the market, the milk must be transported in fluid form whether moved at the expense of the handler or producer.

In the Lake Mead market, location adjustments would apply to existing plants at Logandale, Nev.; and St. George, and Cedar City, Utah. The specific adjustments would approximate —9 cents, —19.5 cents and —27 cents, respectively, at these locations. Although these plants are distributing plants, location adjustments would apply to such plants as well as to supply plants. The value of the milk is determined by the location of the plant rather than by the type of plant it is.

Producers proposed that a location adjustment of —10 cents apply at locations over 40 miles but not more than 50 miles from the Clark County Courthouse. There are no substantial grounds for which to adopt a 40–50-mile zone with a 10-cent adjustment. Also, it is not apparent that any plant would be situated in the zone if it were provided. All location adjustments would be computed on a mileage basis from the courthouse basing point. A rate of 1.5 cents per 10 miles is appropriate to reflect the cost of hauling milk efficiently in bulk tank lots. It is recognized as a representative rate for transporting milk and is the rate most applicable in Federal orders throughout the United States. Except as referred to above (40–50-mile zone), no other rate was proposed.

Proponents proposed that in applying location adjustments, the applicable Lake Mead Class I and uniform prices should not be reduced so as to result in lower prices for milk received at any California plant than that provided by the California Bureau of Milk Stabilization. However, the Class I price provided herein adjusted for location is deemed to be appropriate for insuring an adequate supply of milk for this market without causing unnecessary disruption to supplies for other markets. The rate of location adjustment is reasonable for the efficient transportation of milk in bulk form. It would not be appropriate therefore to limit the application of the adjustment as proposed by proponent. The proposal, therefore, is denied.

To insure that milk will not be moved unnecessarily at producer's expense, the order should contain a provision to limit the quantity of milk transferred between plants that may be eligible for the location adjustment credit. It is therefore provided that, for the purpose of calculating location credit, fluid milk products received from another pool plant shall be assigned to any Class I milk at the transferee plant that is in excess of the sum of produce milk receipts at such plant, receipts from other order plants, and receipts from unregulated supply plants, that are assigned to Class I. Such assignments would be made first to receipts from plants at which no location adjustment is applicable and then in sequence beginning with receipts from the plant with the lowest location adjustment. This sequential assignment of milk will tend to discourage the unnecessary movement of milk between pool plants for other than Class I purposes at the expense of producers, and will provide an equitable basis for facilitating the movement of milk between pool plants for Class I purposes.

Butterfat differential.—The Class I butterfat differential (for each one-tenth of 1 percent butterfat) should be 0.120 times the wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade A (92 score) bulk butter at Chicago, as reported by the Department during the preceding month and rounded to the nearest 10th of a cent, and the Class II and Class III differentials should both be 0.115 times such butter price for the current month.

Based on the February 92-score Chicago butter price, the March 1973 Class I butterfat differential (at 0.120 times the Chicago butter price) would have been 8.1 cents and the butterfat differential for Class II and Class III milk (at 0.115 times such butter price) would have been 7.8 cents.

Proponent cooperatives proposed a single butterfat differential at 0.125 times the Chicago Grade A (92 score) butter price. A witness for proponent cooperatives testified that the present Class I butterfat differential under the regulations of the Nevada Dairy Commission (10 cents for each one-tenth of 1 percent butterfat) should not be adopted in view of the declining consumer acceptance of butterfat in the market place.

In recent years in the southern Nevada market the proportion of solids-not-fat in most of the fluid milk products (in Class I) has increased, and the proportion of butterfat has decreased. This has been evidenced by increasing sales of low-fat milk items while sales of whole milk generally have been declining. During the fourth quarter of 1969 the average butterfat content of milk used in Class I in the southern Nevada marketing area, as reported by the State authorities, averaged 3.48 percent compared with 3.37 percent for the same quarter of 1970, and 3.13 percent for the fourth quarter of 1971. During 1970, the average butterfat content of milk used in the southern Nevada market was 3.35 percent. The market's average butterfat percentage for milk used in Class I dropped in 1971 to 3.22 percent.

This is in line with the national trend toward a declining proportion of butterfat in Class I sales, as reflected by Federal order marketing areas. In 1966 the average butterfat test in Federal order markets for Class I milk was 3.5 percent.[1] This percentage has declined from year to year since, and in 1971 the comparable average butterfat test was 3.21 percent, or 9 percent from 1966 to 1971.

The Class I butterfat differential provided herein, at 0.120 rather than 0.125 times the butter price, is appropriate to improve the competitive position of butterfat in the marketplace. Considering the limited manufacturing facilities in the Lake Mead market, it will provide handlers an incentive to maintain or perhaps, even increase, the butterfat content of their bottled milk products, as an alternative to locating a surplus outlet for such butterfat.

At present, under the regulations of Nevada Dairy Commission, the Class II and Class III butterfat differential for the southern Nevada marketing area are determined by multiplying the 92-score Chicago butter price by 0.115. Hence, the butterfat differentials for Class II and Class III milk provided herein will be the same as those now prevailing for pricing much of the butterfat used in such classes in the southern Nevada market. The butterfat differentials for Class II and Class III milk provided herein will place the same value on butterfat in these two nonfluid classes as is placed on butterfat used in the surplus class under the Great Basin order.

The price a producer receives for butterfat must be closely related to the value of butterfat in the marketplace. This is determined by what handlers can return from the sale of products made from this component of milk. The butterfat differential used in making payments to producers should be computed at the average of the return actually received from the sale of butterfat in producer milk. The rate to be used for this purpose would be the average Class I, Class II, and Class III butterfat differentials weighted by the proportion of butterfat in producer milk classified in each class. Thus, producer returns for butterfat will reflect the average value of their butterfat in the use-classes provided herein. This weighted average method is currently used to pay producers for the butterfat in their milk deliveries in the southern Nevada market.

Use of equivalent prices.—If for any reason a price or pricing constituent needed by the market administrator in administering the order is not available

[1] Official notice is taken of the January 1972 Summary of Federal Milk Order Statistics (issued by the Dairy Division, AMS, USDA), p. 4.

as prescribed by the order, the market administrator is authorized herein to use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required. Including such provision in the order will leave no uncertainty with respect to the procedure to be followed in the absence of any price or pricing constituent customarily used and thereby will prevent interruption in the operation of the order.

(d) *Distribution of the proceeds to producers.*—Marketwide pooling of producer returns should be provided in the order as the means of distributing among producers the proceeds from the sale of their milk. Such pooling method will assure each producer supplying the market a proportionate share of the market's total Class I sales.

The facilities in the various plants in the area for handling producer milk in excess of that needed for Class I purposes vary considerably. While a number of plants in the market are primarily Class I operations and handle little or no surplus milk, others utilize varying proportions of their supplies for Class II items or for manufacturing purposes. Under these conditions, a marketwide pool will facilitate the marketing of producer milk since the type of facilities at the plant will not be a determining factor in the price the plant can pay its producers compared to other plants.

A marketwide pool also will make it possible for producer associations to divert any weekly or seasonal reserves of milk and still keep producers on the market who are needed to fulfill the year-round requirements of the market. It will assist further in apportioning among all producers the lower returns from reserve milk manufactured when otherwise this burden would vary by individual groups of producers.

A marketwide pool thereby will contribute to market stability and the maintenance of an adequate and dependable supply of producer milk at reasonable prices.

Producer-settlement fund.—The market administrator should maintain a producer-settlement fund in which are deposited all moneys paid by handlers in accordance with order terms for milk received, and out of which are paid all moneys due producers and cooperative associations for their milk.

The producer-settlement fund is the mechanism for carrying out the provisions requiring payments to producers on a uniform basis. It is the temporary depository for moneys paid for milk by the handler each month and the source of funds distributed by the market administrator to producers and cooperatives in payment for their milk at the minimum uniform price.

The unobligated balance in the fund is cleared each month except for a small working reserve held for efficient operation of the fund. This is necessary to provide for such contingencies as making payment to a handler from the fund by reason of an audit adjustment. The reserve, which would be operated as a revolving fund and adjusted each month, is established in the attached order at not less than 4 nor more than 5c/cwt of producer milk in the pool for the month.

Any payments received by the market administrator from any partially regulated handler would be deposited in the producer-settlement fund as well as payments made by fully regulated handlers. Money thus deposited would be included in the uniform price computation and thereby be distributed to producers.

Payments to producers and cooperative associations.—Payments to producers and cooperative associations at the minimum uniform price for milk deliveries should be made by the market administrator.

This plan of payment was proposed by producers and no objections were raised at the hearing or in briefs.

Under the pooling and payment plan adopted herein, each handler would be required to make a partial payment to the market administrator (producer-settlement fund) for producer milk received during the first 15 days of the month at a rate per hundredweight equal to the Class III price for the preceding month. Such payment would be due by the 25th day of the same month. The market administrator, in turn, would distribute these partial payments by the last day of the same month to producers who do not receive their payments through a cooperative association.

Provision should be made for a cooperative association to receive payment for producers' milk it causes to be delivered to a pool plant or diverts. Receiving payment for milk marketed, with the opportunity to reblend proceeds where the sale of members' milk is involved, will promote orderly marketing and will assist a cooperative in discharging its responsibilities to members and to the market.

The statute provides that cooperatives may receive moneys for milk marketed by them to handlers and permits the reblending among members of the returns from their milk. Membership contracts normally authorize a cooperative to collect for member producer deliveries. Therefore, the market administrator, if requested by an authorized cooperative, would pay it an amount equal to the sum of the individual payments otherwise payable to the producers for whom it markets.

Payments to a cooperative association on milk marketed through it would be made by the market administrator 2 days earlier, thus enabling producers who market through a cooperative to receive payment on the same day that other producers receive their payment.

Final payment by the handler to the market administrator for all producer milk received during the month would be required by the 14th of the following month. Final payments for the month would be made by the market administrator to cooperatives by the 17th day of the following month following the month of delivery, and to the individual producers who do not receive their payments through a cooperative, by the 19th of the following month.

The various dates proposed herein for making final payments for producer milk will result in producers receiving the returns from their milk deliveries as soon as feasible after the submission of handler reports and the computation of the uniform price. Reports of receipts and utilization for the previous month, essential to the uniform price computation, would be required of handlers by the seventh day of the month. The market administrator would be required to announce the uniform price by the 12th day of the month. These particular dates are reasonably spaced to provide time after the end of the month for handlers to prepare and submit their reports, for the market administrator to process such reports and compute the uniform price, and for the collection of payments from handlers based on billings issued by the market administrator.

Handlers' final monthly payments to the market administrator would be subject, of course, to any proper deductions authorized in writing by the individual producer. For example, it is not unusual for the producer to make legitimate purchases of supplies and materials through his handler for which he has an obligation to pay. Hauling also is a regular service to the producer, reimbursement for which is properly deductible from payments due the producer, whether performed by the handler or by common carrier. Allowable deductions normally would be made by the handler from his pool obligation and would be taken into account by the market administrator in making payments from the producer-settlement fund on a uniform basis to producers and cooperative associations.

A particular problem concerning the propriety of hauling deductions from producer payments was raised at the hearing.

A producer spokesman testified that 70 c/cwt has been deducted from his milk check for the past several years for the haul of his milk to a Las Vegas plant located about 126 miles from his farm. The producer testified that he considered such rate, assessed by the handler purchasing his milk, to be excessive, but has acquiesced to it because under the arrangement he has with the handler the handler's purchase of his milk is dependent upon the condition that the handler will perform the hauling services.

While the propriety of the rate testified to is not demonstrated on the record, a basic question is raised by the producer, i.e., whether any hauling deduction from a producer's payment that is not clearly in the nature of reasonable reimbursement for services performed on behalf of the producer in connection with the production or delivery of his milk jeopardizes the integrity of the minimum uniform price plan, an essential feature of a regulation that is designed to provide orderly marketing conditions for

producers by establishing minimum uniform prices for their milk.

A handler may not be allowed, of course, either directly or through any affiliate or subsidiary, to gain a competitive advantage over other handlers by circumventing the minimum price provisions of the order. To refer again to the testimony of hauling rates, a handler could gain such an advantage by having the producer authorize on the handler's behalf a hauling rate in excess of what is a reasonable rate under the prevailing conditions. Otherwise, the possibility would exist that the handler not only could avoid the full class price obligation placed on him by the regulatory program, but also could deprive producers of the minimum uniform price they are guaranteed by the program. Such an arrangement tends also to discourage competitive hauling practices for the market.

Failure to prevent a circumvention of the minimum price provisions could result in continuation in one of the conditions that led to this hearing proceeding, i.e., payment by handlers of different prices for milk received from producers with competitive advantage in milk procurement cost for some handlers, with some producers bearing the brunt of prices not fully reflective of the value of their milk delivered to plants serving this market. The integrity of the minimum price provisions of the order could be jeopardized and statutory objectives defeated. Any deduction that thwarts the statutory goals obviously would not be properly made.

It is not inconceivable that a handler attempting to gain a pricing advantage could arrange with his producers to rebate to him from such producer's uniform price payment, moneys in excess of reasonable value for the service or the actual deductions therefor. Such subterfuge would have the identical effect of an excessive hauling deduction per se and should be treated as such by the market administrator.

Since the order specifically provides for appropriate hauling deductions when properly authorized by the producer, it is reasonable to presume that the handler's acceptance of a rebate from the producer would have as its purpose the hiding of the true nature of the transaction involved. Any such transaction not disclosed by the handler's reports or records should be considered as an attempt to violate the order.

It is well established that not less than the minimum uniform price required by the order must be paid to producers, and that any device that results in the producers receiving less than such uniform price is unlawful, even if authorized or acquiesced in by the producer. Thus, a producer may not waive his right to receive the minimum uniform price established by the order by making it possible for a handler to recover in any form any part of the minimum price payment due the producer. To allow such a waiver of the minimum price requirements of the order by the producer in favor of the handler would be as destructive to the purposes of the act as an unreasonable charge by the handler in consideration of the service performed by him for the producer.

It is appropriate, therefore, to assure individual producers of equitable charges for hauling service arranged or performed by the handler on the producer's behalf, to provide that: (1) The handler shall substantiate in advance, to the satisfaction of the market administrator, that the charge assessed a producer is appropriate under the conditions existing with respect to the particular load of milk and other conditions relative to the hauling of milk for the market, and (2) the handler shall give notice, simultaneously to all producers to be affected thereby, and in advance of the effective date, of any change in the hauling charge.

Each such charge, of course, must be authorized in writing by the individual producer. Prevailing charges for hauling and changes therein shall be publicly announced by the market administrator.

The record discloses the possibility that the amount of the hauling charge may be influenced by other arrangements between the handler and the producer for the sale of the producer's milk. For this reason the order should provide further that the arrangement under which the handler hauls milk for the producer shall be independent of other terms of sale for such milk.

The general provisions of the Lake Mead order provide for the maintenance of records by each handler relevant to order transactions and obligations involving the handler under the order. To carry out the above requirements with respect to hauling reimbursement to handlers from producer payments, it is provided further that any handler, whether directly or through an affiliate or subsidiary, engaged in hauling producer milk in the Lake Mead market shall retain, or be responsible for making available from such affiliate or subsidiary, for examination by the market administrator at his request, certain records with respect to such milk movements as specified in the order.

Two other proposals dealing with possible problems concerning deductions for hauling were before the hearing. One would provide for maximum rates that could be charged producers for hauling their milk from farm to plant. A spokesman for producers suggested, however, that if such method were adopted, the market administrator should be authorized to develop the rates through formal rulemaking procedure rather than by incorporation of a specific schedule of maximum rates in the order.

The second proposal would limit hauling deductions to an amount not exceeding prevailing rates charged by a common carrier engaged in the same class of service.

The evidence in the hearing record provides inadequate basis for adoption of the latter proposals, which were presented by proponents as possible alternatives to their original proposal (§ 1139.80 of their proposed order) concerning proper deductions authorized by producers.

(e) *Administrative provisions.—Charges on overdue accounts.*—The Lake Mead order should provide a rate of three-fourths of 1 percent per month on any unpaid obligation due the market administrator for deposit in the producer-settlement fund.

Proponent cooperatives proposed a rate of 1 percent per month. A witness for proponent testified that such a charge on overdue accounts is needed to encourage prompt payment.

A charge on overdue accounts should be provided in the Lake Mead order to encourage prompt payment of handler obligations. It is essential that all handler payments to the producer-settlement fund be made promptly in order that the market administrator will be able to make the required payments to producers. Handlers who pay late are, in effect, borrowing money from producers through the producer-settlement fund. Money borrowed is worth a reasonable rate of interest. However, the charge applied to overdue accounts is not a substitute for prompt payment as required by the order.

Proponent cited varying interest rates associated with credit transactions in the Las Vegas area. Consumer credit accounts generally charge at the rate of 1½ percent per month (18 percent on an annual basis). Area banks charge their prime customers at the rate of about 7.5 percent annually. When they are made, such loans are secured. However, bank loans at the prime rate are not general. Accordingly, the rate charged on overdue accounts under the order that are already past due and are not secured should be somewhat higher than the prime rate.

There should be no opportunity for a handler to achieve financial advantage by delaying payments of obligations to the market administrator. Accordingly, the Lake Mead order should provide a carrying charge on overdue obligations of fully regulated handlers to the market administrator for deposit into the producer-settlement fund, including any adjustment resulting from audit by the market administrator of a handler's receipts and utilization. The charge should apply also to the overdue obligations (to the producer-settlement fund) of partially regulated handlers, including audit adjustments. The rate provided herein at three-quarters of 1 percent is reasonable in view of rates generally prevailing in the region and will tend to preclude such situations from occurring.

Marketing services.—Provisions should be made in the order for furnishing marketing services to producers, such as verifying the tests and weights of producer milk and furnishing market information. These services should be provided by the market administrator and the cost should be borne by producers for whom the services are rendered. Any cooperative association, if approved for

such activity by the Secretary, may perform such services for its producers and if it is doing so, the service will not be furnished to such producers by the market administrator. The act specifically authorizes marketing services provisions of the nature provided herein.

There is a need for a marketing service program in connection with the administration of a Federal milk order for the Lake Mead area. The weighing and testing of the milk of all producers is closely related to the main provisions of the order, which are the classification and pricing provisions. The latter provisions are the basis of the computation of the minimum uniform price payable to producers.

The Lake Mead order, like other Federal milk orders, would contain provisions requiring all regulated handlers to submit to the market administrator each month a report showing the total quantity of skim milk and butterfat received from producers, and his utilization of such skim milk and butterfat in the three price classifications provided. From such report the market administrator computes the handler's pool obligation by multiplying the quantity of milk in each use class by the applicable class price. The uniform price is derived by totaling the obligation of all regulated handlers and dividing the sum by the total quantity of milk delivered by all producers. This is the price payable to each producer subject only to adjustments for the butterfat test of the individual producer's milk and for the location of the plant to which his milk was delivered.

To verify that a handler has reported his receipts and disposition correctly and to insure that each producer receives proper payment for his deliveries, the market administrator audits each handler's operation. The quantity of skim milk and butterfat received by a handler must balance, of course, with the quantities of skim milk and butterfat in the products processed and disposed by him. This requires the availability of the weight and butterfat test of each producer's deliveries. The provisions provided herein for weighing and testing provide the further guarantee to all producers that each of them is properly paid on the basis of a check of an impartial agency, and that one producer is not receiving a part of his payment at the expense of other producers through inaccurate weights or test. It is not apparent from the testimony provided that any agency is now regularly verifying the weights and tests of producer milk.

Milk produced on a handler's own farm should be exempt from marketing service deductions, even though it is subject to other provisions of the order. There are no payments to other persons on such milk. Hence, there is no need to provide the same marketing services as are provided other producers.

The other service provided, that of furnishing market information, is designed to keep the producer informed of developments that might affect his price or market outlet in order that he may better evaluate his marketing situation and that of producers generally. The objective of the program is to aid producers to achieve and maintain orderly marketing conditions for their milk.

In the case of producers who market their milk through a cooperative association, the act authorizes such cooperative to perform these marketing services, and the costs of these services normally are borne by such producers through membership dues.

Proponent cooperative associations proposed that 12c/cwt be provided in the order as a marketing services deduction. However, no specific testimony was introduced to show that the 12-cent rate is needed.

It is concluded that in the absence of such information, a rate of 7c/cwt should be provided. This represents the maximum rate established in any Federal order, regardless of market size. It is anticipated that such maximum rate will cover the costs that are likely to be incurred by the market administrator in providing the services specified for the 10 percent of the producers supplying the market who will receive the services by this means. If experience indicates that marketing services can be performed at a lesser rate, provision is made whereby the Secretary may adjust the rate downward without the necessity of a hearing.

Expense of administration.—Each handler should be required to pay to the market administrator, as his proportionate share of the cost of administering the order, 4¢/cwt, or such lesser amount as the Secretary may prescribe, on producer milk (including milk of such handler's own production) and on other source milk allocated to class I (except milk so assessed under another Federal order).

The market administrator must have sufficient funds to enable him to administer properly the terms of the order. The act provides that such cost of administration shall be financed through an assessment on handlers. A principal function of the market administrator is to verify the receipts and disposition of milk from all sources. Equity in sharing the cost of administration of the order among handlers will be achieved, therefore, by applying the administrative assessment on the basis of milk received from dairy farmers and on other source milk allocated to class I milk.

The proposed order provides that a cooperative shall be the handler on milk it delivers in tank trucks from the farms to pool plant of other handlers. The cooperative is the handler on such milk basically for the purpose of making payments to its individual producers. For all accounting purposes, however, the milk would be considered as producer milk at the plant of the receiving handler. It therefore would be treated the same as any other direct receipts from producers.

The market administrator must verify by audit the receipts and utilization at pool plants, whether the plant operator buys his milk directly from producers or through a cooperative as a bulk tank handler. It is appropriate, therefore, that the pool plant operator receiving such milk pay the administrative assessment on it on the same basis that he pays such assessment for all other producer milk received at his plant. No plant of the cooperative is involved in this particular circumstance. The cooperative, therefore would be liable only for the administrative assessment on any amount by which the farm weights of the producer milk exceed the aggregate weight on which the plant operator purchases the milk from the cooperative.

The order specifies minimum performance standards that must be met to obtain regulated status. The operator of a plant not meeting such standards (i.e., a partially regulated distributing plant) is required to either (1) make specified payments (discussed elsewhere in this decision) into the producer-settlement fund on route disposition in the marketing area in excess of offsetting purchases of Federal order Class I milk, or (2) otherwise pay into such fund and/or to dairy farmers an amount not less than the classified use value of his receipts from dairy farmers computed as though such plant were a fully regulated plant.

The market administrator, in administering an order as it applies to such nonpool route distributor, must incur expenses in essentially the same manner as in applying the order to pool handlers. However, the order is not applicable to such distributor to the same extent as to regulated handlers. Hence, payment of the administrative assessment on his in-area sales would reasonably constitute his pro rata share of the administrative expense.

In the case of unregulated milk that enters the market through a regulated plant for Class I use, it is the regulated handler who utilizes the unregulated milk and who must report to the market administrator the receipt and use of such milk. Also, the receipts and utilization of all milk at his plant are subject to verification by the market administrator. Hence, it is appropriate that the regulated handler be responsible for payment of the administrative assessment on such unregulated milk.

The order is designed so that the cost of administration is shared equitably among handlers distributing milk in the proposed marketing area. However, to prevent duplication, an assessment should not be made on other source milk on which an assessment was made under another Federal order.

Provision should be made so that the Secretary may reduce the amount of the administrative assessment without the necessity of amending the order. The rate can thus be reduced when experience indicates a lower rate will be sufficient to provide adequate funds for the administration of the order.

General provisions.—The Lake Mead order proposed herein incorporates, by reference, certain terms, definitions, and administrative provisions that are included in part 1000. The provisions are

common to all Federal milk orders, having been so adopted effective July 1, 1971 (36 FR 9844).

The first section (§ 1000.1) states that the uniform provisions included in part 1000 shall be a part of each Federal milk marketing order as if set forth in full in each order, except in any order where any such provision is expressly defined or modified otherwise.

The second section (§ 1000.2) includes definitions of five general terms used in all Federal milk orders: Act, order, department, secretary, and person.

The third section (§ 1000.3) deals with the designation, powers, and duties of the market administrator.

The fourth section (§ 1000.4) pertains to the continuity and separability of provisions in an individual order. For the most part these are internal administrative rules and instructions to Department employees regarding procedures involved in the suspension, termination, or liquidation of any or all provisions of a Federal milk order.

The fifth section (§ 1000.5) describes a handler's responsibility with respect to records and facilities.

The final section (§ 1000.6) relates to the termination of obligations.

The standard provisions of part 1000 have the same intent and purpose in each Federal milk order, and they have worked effectively since the adoption of part 1000 in July 1971 for all Federal orders. Adopting part 1000 by reference for the Lake Mead order will promote uniform application of these provisions, which have the same intent and purpose in all orders.

A detailed discussion of the need and basis for incorporating the general provisions in each order is contained in a decision issued by the Assistant Secretary on April 15, 1971 (36 FR 7514). The findings and conclusions thereof are made a part hereof by reference as the basis for adopting the same provisions in the Lake Mead order.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

(a) The proposed marketing agreement and order, 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 proposed marketing agreement and the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The proposed marketing agreement and order will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the proposed order. The following order regulating the handling of milk in the Lake Mead marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

PART 1139—MILK IN LAKE MEAD MARKETING AREA

Subpart—Order Regulating Handling

General Provisions

Definitions

Handler Reports

Classification of Milk

Class Prices

Uniform Price

Payments for Milk

Administrative Assessment and Marketing Service Deduction

General Provisions

§ 1139.1 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

§ 1139.2 Lake Mead marketing area.

"Lake Mead marketing area," hereinafter called the "marketing area," means all territory geographically within the boundaries listed in paragraphs (a) and (b) of this section, including all territory occupied by government (municipal, county, State, or Federal) reservations, installations, institutions, or other establishments. Where such an establishment is partly within and partly without such territory, the marketing area shall include the entire establishment:

(a) In Clark County, Nev., the Nellis Air Force Base and the following incorporated and unincorporated places:

Henderson City in Henderson Township.
In Las Vegas Township:
East Las Vegas.
Las Vegas City.
Paradise.
Sunrise Manor (part).
Vegas Creek.
Winchester.
Boulder City in Nelson Township.
In North Las Vegas Township:
Nellis.
North Las Vegas City.
Sunrise Manor (part).

(b) In the State of Utah, Cedar City in Iron County and St. George in Washington County.

§ 1139.3 Route disposition.

"Route disposition" means any delivery of a fluid milk product classified as Class I milk from a plant to a retail or wholesale outlet (including any delivery through a distribution point, by a vendor, from a plant store or through a vending machine) except a delivery to another plant.

§ 1139.4 [Reserved]

§ 1139.5 Distributing plant.

"Distributing plant" means a plant in which milk approved by a duly constituted regulatory agency for fluid consumption, or filled milk, is processed or packaged and from which there is route disposition in the marketing area during the month.

§ 1139.6 Supply plant.

"Supply plant" means a plant from which a fluid milk product acceptable to a duly constituted regulatory agency for fluid consumption, or filled milk, is transferred during the month to a pool distributing plant.

§ 1139.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant that during the month has:

(1) Route disposition, except filled milk, representing not less than 50 percent of its total receipts of Grade A fluid milk products (including milk diverted from such plant to a nonpool plant pursuant to § 1139.13); and

(2) Route disposition, except filled milk, in the marketing area representing not less than 10 percent of such receipts.

(b) A supply plant from which during the month not less than 50 percent of its Grade A milk receipts from dairy farmers (including milk diverted from such plant to a nonpool plant pursuant to § 1139.13) is transferred to a pool distributing plant pursuant to paragraph (a) of this section as fluid milk products, except filled milk. Any supply plant that has qualified as a pool plant in each of the immediately preceding months of August through February shall be a pool plant in each of the following months of March through July unless written request for nonpool status for any such month is filed by the plant operator with the market administrator prior to the first day of any such month. A plant withdrawn from supply pool plant status may not be reinstated for any subsequent month of the March-through-July period unless it fulfills the transferring requirement of this paragraph for such month.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A distributing plant qualified pursuant to paragraph (a) of this section that also meets the pool plant requirements of another Federal order and from which, the Secretary determines, a greater quantity of Class I milk, except filled milk, was disposed of as route disposition during the month in such other Federal marketing area than was disposed of as route disposition in this marketing area, except if such plant was subject to all the provisions of this order in the immediately preceding month, it shall continue to be subject to all the provisions of this order until the third consecutive month in which a greater proportion of its Class I route disposition, except filled milk, is made in such other marketing area unless, notwithstanding the provisions of this subparagraph, it is regulated under such other order;

(3) A distributing plant qualified pursuant to paragraph (a) of this section that also meets the pool plant requirements of another Federal order on the basis of route disposition in such other marketing area, and from which, the Secretary determines, a greater quantity of Class I milk, except filled milk, is disposed of during the month as route disposition in this marketing area than is disposed of in such other marketing area but which plant is, nevertheless, fully regulated under such other Federal order;

(4) A supply plant qualified pursuant to paragraph (b) of this section that also meets the pool plant requirements of another Federal order and from which greater qualifying transfers are made during the month to plants regulated under such other order than are made to plants regulated under this order, except during the months of March through July if the transfers to the other order plant are for surplus disposition and the operator of the supply plant elects to retain automatic pooling under this part; or

(5) A distributing plant from which less than an average of 300 pounds of Class I milk per day, except filled milk, is disposed of in the marketing area during the month.

§ 1139.8 Nonpool plant.

"Nonpool plant" means any milk, or filled milk, receiving, manufacturing, or processing plant other than a pool plant. This definition shall include, but not be limited to, the following categories of plants:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the act.

(c) "Partially regulated distributing plant" means a distributing plant that does not qualify as a pool plant and is not an other order plant, a producer-handler plant, or an exempt distributing plant.

(d) "Unregulated supply plant" means a supply plant that does not qualify as a pool supply plant and is not an other order plant, a producer-handler plant, or an exempt distributing plant.

(e) "Exempt distributing plant" means a distributing plant defined in § 1139.7(c)(5).

§ 1139.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to milk of its producers that is diverted pursuant to § 1139.13 for the account of the cooperative association;

(c) Any cooperative association with respect to milk of its producers that is received at the farm for delivery to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) Any person defined as a producer-handler;

(f) Any person in his capacity as the operator of an other order plant described in § 1139.7(c);

(g) Any person in his capacity as the operator of an unregulated supply plant; and

(h) Any person in his capacity as the operator of an exempt distributing plant.

§ 1139.10 Producer-handler.

"Producer-handler" means any person who:

(a) Operates a dairy farm and a distributing plant;

(b) Receives fluid milk products only from:

(1) His own dairy farm production; and

(2) Pool plants or other order plants (by transfer) in an amount that is not in excess of the lesser of 5 percent of his Class I utilization during the month or 5,000 pounds;

(c) Does not reprocess or convert milk products into fluid milk products except to increase the nonfat milk solids content above that of the fluid milk products received; and

(d) Provides proof satisfactory to the market administrator that:

(1) The care and management of the dairy animals and other resources necessary to produce the entire amount of milk handled (other than that received from regulated plants) is the personal enterprise of and at the personal risk of such person; and

(2) The management and operation of such distributing plant is the personal enterprise of and at the personal risk of such person.

§ 1139.11 [Reserved]

§ 1139.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person:

(1) Who produces milk in compliance with the Grade A milk inspection requirements of a duly constituted regulatory agency; and

(2) Whose milk is received at a pool plant or diverted from a pool plant to a nonpool plant that is not a producer-handler plant within the limits set forth in § 1139.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the act;

(2) Any person with respect to milk produced by him diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1139.44(a)(8)(iii) and the corresponding step of § 1139.44(b);

(3) Any person with respect to milk produced by him diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk; and

(4) Any person whose milk is received during the month at a nonpool plant except by diversion from a pool plant.

§ 1139.13 Producer milk.

"Producer milk" means the skim milk and butterfat in milk of a producer which is:

(a) With respect to a handler described in § 1139.9(a):

(1) Received at his pool plant directly from the producer;

(2) Received at his pool plant from a handler described in § 1139.9(c); and

(3) Diverted for his account from his pool plant to a nonpool plant that is not a producer-handler plant, subject to the conditions set forth in paragraph (d) of this section;

(b) With respect to a handler described in § 1139.9(b), diverted for such handler's account from a pool plant to a nonpool plant that is not a producer-handler plant, subject to the conditions set forth in paragraph (d) of this section; and

(c) With respect to a handler described in § 1139.9(c), received by the handler from the producer's farm in excess of the producer's milk that is received at pool plants pursuant to paragraph (a)(2) of this section. Such producer milk of the handler shall be deemed to have been received by the handler at the location of the pool plant to which the milk was delivered.

(d) The following conditions shall apply to milk of a producer diverted from a pool plant to a nonpool plant that is not a producer-handler plant:

(1) Such milk shall be priced at the location of the nonpool plant to which the milk is diverted.

(2) A cooperative association may divert for its account the milk of any producer (other than producer milk diverted pursuant to paragraph (d)(3) of this section) from whom at least 6 days' production of milk is received during the month at a pool plant. The total quantity of milk so diverted may not exceed 30 percent in the months of March through July and 20 percent in other months of the producer milk which the association causes to be delivered to pool plants, or diverted therefrom during the month.

(3) The operator of a pool plant (other than a cooperative association) may divert for his account the milk of any producer (other than producer milk diverted pursuant to paragraph (d)(2) of this section) from whom at least 6 days' production of milk is received during the month at his pool plant. The total quantity of milk so diverted may not exceed 30 percent in the months of March through July and 20 percent in other months of the milk received at or diverted from such pool plant from producers and for which the operator of such plant is the handler during the month. The milk for which the operator of such plant is the handler during the month shall not duplicate milk diverted pursuant to paragraph (d)(2) of this section;

(4) Diversions in excess of such percentages shall not be producer milk, and the diverting handler shall designate the dairy farmers whose milk is not producer milk. If the handler fails to make such designation, no milk diverted by him shall be producer milk.

§ 1139.14 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 § 1139.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1139.40(b)(1);

(c) Products (other than fluid milk products and products specified in § 1139.40(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 § 1139.40(b)(1)) from which the handler fails to establish a disposition.

§ 1139.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" 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 paragraph (a)(1) of this section or in § 1139.40(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.

§ 1139.16 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.

§ 1139.17 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).

§ 1139.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the cooperative 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 to be engaged in making collective sales of or marketing milk for its members; and

(c) To have its entire activities under the control of its members.

HANDLER REPORTS

§ 1139.30 Reports of receipts and utilization.

On or before the seventh day after the end of the month, each handler shall report to the market administrator, in the detail and on the forms prescribed by the market administrator, the following information for such month:

(a) Each handler, with respect to each of his pool plants, 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 descrbied in § 1139.9(c);

(3) Receipts of fluid milk products and bulk 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 § 1139.40(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 § 1139.9 (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.

§ 1139.31 Payroll reports.

(a) On or before the eighth day after the end of each month, each handler described in § 1139.9 (a), (b), and (c) shall report to the market administrator, in the detail prescribed by the market administrator, the following information showing for each producer for such month:

(1) His name and address;

(2) The number of days on which milk was received from such producer;

(3) The total pounds of milk received from such producer;

(4) The average butterfat content of such milk;

(5) The identity of producers for whom the cooperative association is authorized to collect payment pursuant to § 1139.73; and

(6) The amount and nature of any deductions authorized in writing by the producer to be made from payments due such producer for milk delivered.

(b) On or before the 21st day of each month, each handler described in § 1139.9 (a), (b), and (c) shall report to the market administrator, in detail and on forms prescribed by him, the name and address of each producer from whom milk was received during the first 15 days of such month, and the total pounds of milk so received during said period from such producer.

(c) Each handler operating a partially regulated distributing plant who elects to make payments pursuant to § 1139.76 (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.

§ 1139.32 Other reports.

In addition to the reports required pursuant to §§ 1139.30 and 1139.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1139.40 Classes of utilization.

Except as provided in § 1139.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1139.30 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 paragraph (b) (1) of this section; 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) Milkshake 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 paragraphs (b) or (c) (1) (i) through (viii) 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 § 1139.41(a) to the receipts specified in § 1139.41(a) (2) and in shrinkage specified in § 1139.41 (b) and (c).

§ 1139.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1139.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant 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 paragraph (b) (1) of such section 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 and milk received from a handler described in § 1139.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1139.9(c), except that, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and the butterfat tests determined from farm 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 from its measurement at the farm 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 by transfer from

other order plants, excluding 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 paragraph (b) (1), (2), (4), (5), and (6) of this section; 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 § 1139.9 (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 from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1139.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.*—Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers 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 after the computation pursuant to § 1139.44(a)(12) and the corresponding step of § 1139.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1139.44(a)(7) or the corresponding step of § 1139.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1139.44(a)(11) or (12) or the corresponding steps of § 1139.44(b), the skim milk or butterfat so transferred, 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.

(b) *Transfers and diversions to other order plants.*—Skim milk or butterfat transferred or diverted in the form of a fluid milk product or transferred in the form of 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 paragraph (b) (1), (2), or (3) of this section:

(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 paragraph (b)(3) of this section);

(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 milk 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 adjustments when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is povided 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 § 1139.40.

(c) *Transfers to producer-handlers and transfers and diversions to exempt distributing plants.*—Skim milk or butterfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to an exempt distributing plant shall be classified:

(1) As class I milk, if so moved 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 transferee's utilization of skim milk and butterfat in each class, in series beginning with class III, shall be assigned to the extent possible to its 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, a producer-handler plant, or an exempt distributing 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 transferred in the form of a bulk fluid cream product, unless the following conditions apply:

(i) If the transferor-handler or diverter-handler so requests and the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section 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 paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1139.30 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 bulk 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 pant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1139.43 General classification rules.

In determining the classification of producer milk pursuant to § 1139.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1139.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1139.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1139.40, 1139.41, and 1139.42;

(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; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1139.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1139.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1139.9(a) for each of his pool plants separately and of each handler described in § 1139.9 (b) and (c) 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 § 1139.41 (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 paragraph (a) (7) (vi) of this section, 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 § 1139.40(b) (1) that were received in packaged form from other plants, but not in excess of the pounds 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 § 1139.40(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 § 1139.40(c) (6)), any product specified in § 1139.40(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 § 1139.40(b) (1) that were not subtracted pursuant to paragraph (a) (4), (5), and (6) of this section;

(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 and from an exempt distributing plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2) of this section;

(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; and

(vii) Receipts of milk from a dairy farmer pursuant to § 1139.12 (b) (4);

(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 paragraph (a) (2) and (7) (v) of this section 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 paragraph (a) (2), (7) (v), and (8) (i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a) (8) (ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class

I at this allocation step at all pool plants of the handler;

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1139.9(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 paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; 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 paragraph (a)(7)(vi) of this section, 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 § 1139.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, 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 at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted 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 paragraph (a) (2), (7)(v), and (8) (i) and (ii) of this section 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:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(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 paragraph (a) (7)(vi) and (8)(iii) of this section;

(i) Subject to the provisions of paragraph (a)(12) (ii) and (iii) of this section; 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 § 1139.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler 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 at such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to either paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract in the following order 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 § 1139.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) 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 § 1139.44(a) (14) and the corresponding step of § 1139.44(b).

§ 1139.45 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 § 1139.44(a)(12) and the corresponding step of § 1139.44(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 § 1139.44 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 another 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.

(d) On or before the 12th day after the end of each month, report to each cooperative association that so requests the amount and class utilization of producer milk delivered by members of such cooperative association to each handler receiving such milk. For the purpose of this report, the milk so received shall be pro rated to each class in accordance with the total utilization of producer milk by such handler.

Class Prices

§ 1139.50 Class prices.

Subject to the provisions of §§ 1139.52 and 1139.55, the class prices for the

month per hundredweight of milk shall be as follows:

(a) *Class I price.*—For the first 18 months this order is effective, 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 basic formula price for the month plus 15 cents.

(c) *Class III price.*—The class III price shall be the basic formula price for the month.

§ 1139.51 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.

§ 1139.52 Plant location adjustments for handlers.

(a) For producer milk received at a plant located more than 40 miles, by shortest highway distance, as determined by the market administrator, from the county courthouse in Las Vegas, Nev., and classified as Class I milk, subject to the limitation set forth in paragraph (b) of this section, the Class I price specified in § 1139.50(a) shall be reduced at the rate of 1.5 cents for each 10 miles or fraction thereof that such plant is located from such courthouse.

(b) For the purpose of calculating location adjustments, receipts of fluid milk products from pool plants shall be assigned any remainder of Class I milk at the transferee-plant that is in excess of the sum of producer milk receipts at such plant and that assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment shall be made first to receipts from plants at which no location adjustment is applicable pursuant to this section and then in sequence beginning with receipts from the plant with the lowest applicable location adjustment.

(c) The Class I price applicable to other source milk shall be adjusted at the rate set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1139.53 Announcement of class prices and handler butterfat differentials.

The market administrator shall announce publicly on or before the fifth day of each month:

(a) The Class I price for the following month;

(b) The Class I butterfat differential for the current month; and

(c) The Class II and Class III prices and the corresponding butterfat differentials, all for the preceding month.

§ 1139.54 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.

§ 1139.55 Handler butterfat differentials.

For milk containing more or less than 3.5 percent butterfat, the class prices calculated pursuant to § 1139.50 shall be increased or decreased, respectively, for each one-tenth of 1 percent of butterfat by the appropriate rate, rounded to the nearest one-tenth cent, determined as follows:

(a) *Class I milk.*—Multiply the butter price specified in § 1139.51 for the preceding month by 0.120.

(b) *Class II and Class III milk.*—Multiply the butter price specified in § 1139.51 for the month by 0.115.

UNIFORM PRICE

§ 1139.60 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 § 1139.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1139.44 by the applicable class prices (adjusted pursuant to §§ 1139.52 and 1139.55) and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1139.44(a)(14) and the corresponding step of § 1139.44(b) by the applicable class prices;

(c) Add the amounts computed pursuant to paragraph (c) (1) and (2) of this section:

(1) Multiply the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1139.44(a)(9) and the corresponding step of § 1139.44(b);

(2) Multiply the difference between the Class III price for the preceding month and the Class II price for the current month by the hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1139.44(a)(9) and the corresponding step of § 1139.44(b);

(d) Add the amount obtained by 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 § 1139.44(a)(7) (i) through (iv) and (vii) and the corresponding step of § 1139.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained by 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 § 1139.44(a)(7) (v) and (vi) and the corresponding step of § 1139.44(b); and

(f) Add the amount obtained by 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 § 1139.44(a)(11) and the corresponding step of § 1139.44(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.

§ 1139.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1139.60 for all handlers who filed reports prescribed by § 1139.30 for the month and who made the payments pursuant to § 1139.71 for the preceding month;

(b) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1139.74 and multiplying the result by the total hundredweight of such milk;

(c) Add an amount equal to the total value of the location adjustments computed pursuant to § 1139.75;

(d) Add an amount equal to not less than one-half the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1139.60(f); and

(f) Subtract not less than 4 cents nor more than 5 c/cwt. The result shall be the "uniform price."

§ 1139.62 Announcement of uniform price and producer butterfat differential.

On or before the 12th day after the end of each month the market administrator shall announce publicly the uniform price and producer butterfat differential for such month.

Payments for Milk

§ 1139.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit the appropriate payments made by handlers pursuant to §§ 1139.71, 1139.76, and 1193.77 and out of which he shall make the appropriate payments pursuant to §§ 1139.73 and 1139.77. Payments due to a person from the fund shall be offset by payments due to the fund from such person.

§ 1139.71 Payments to the producer-settlement fund.

(a) On or before the 25th day of the month, each handler shall pay to the market administrator for deposit into the producer-settlement fund an amount detremined by multiplying the hundredweight of producer milk received by him during the first 15 days of such month by the Class III price for the preceding month.

(b) On or before the 14th day after the end of the month, each handler shall pay the market administrator an amount equal to his net pool obligation computed pursuant to § 1139.60, less:

(1) Payments made pursuant to paragraph (a) of this section for such month;

(2) An amount computed by multiplying the uniform price applicable at the location of plants from which other source milk is received by the hundredweight of other source milk for which a value is computed pursuant to § 1139.60 (f); and

(3) Proper deductions, charges, or other reimbursement in favor of the handler authorized in writing by producers from whom such handler received milk:

(c) On or before the 25th day after the end of the month, each handler operating a plant subject to the classification and pricing provisions of another order which provides 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 paragraph (c) (1) of this section 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.

§ 1139.72 [Reserved]

§ 1139.73 Payments to producers and to cooperative associations.

(a) On or before the last day of each month, the market administrator shall make payment, subject to paragraph (c) of this section, to each producer for milk received from such producer during the first 15 days of such month by handlers from whom the appropriate payments have been received pursuant to § 1139.71(a) at not less than the Class III price per hundredweight for the preceding month;

(b) On or before the 19th day after the end of each month, the market administrator shall make payment, subject to paragraph (c) of this section, to each producer for milk received from such producer during the month by handlers from whom the appropriate payments have been received pursuant to § 1139.71(b) at the uniform price per hundredweight as adjusted pursuant to §§ 1139.74 and 1139.75, less:

(1) Payments made pursuant to paragraph (a) of this section for such month;

(2) Deductions for marketing services pursuant to § 1139.86;

(3) Other proper deductions (as to purpose and amount) authorized by such producer in writing. As the basis for deductions or other reimbursement to handlers for hauling milk of producers, each handler shall file in advance with the market administrator, in the manner prescribed by him, his rates or charges for hauling and shall substantiate to the satisfaction of the market administrator that the amount to be assessed each producer therefor is reasonable under the hauling conditions existing for the particular load and other conditions relative to the hauling of milk for the market. The handler then shall obtain, in advance of its effective date, on forms provided by the market administrator, written authorization from each producer for the charge. Such procedure shall apply also in the case of any proposed change in hauling charge by the handler. No contractual arrangement between a handler and a producer for supplying milk to the handler shall be contingent on the hauling of such milk by the handler or his affiliate or subsidiary. Prevailing hauling charges and changes therein shall be publicly announced by the market administrator.

(4) For purposes of paragraph (b) (3) of this section, each handler who owns or operates, either directly or through an affiliate or subsidiary person (including interlocking officers or directors), any mobile vehicle used during the month for transporting producer milk en route from the farm of any producer to a pool plant or to a nonpool plant, or from the plant of any cooperative association to the plant of a handler, including his own plant, shall keep, or be responsible for making available from any such affiliate or subsidiary, for examination by the market administrator at his request, records that shall show:

(i) The date, time, source, and quantity of each load of such milk transported by any mobile vehicle so owned or operated by such handler, affiliate, or subsidiary together with the date, time, and quantity of all such milk delivered from such vehicle, and the location and identification of the milk plant or other facility to which delivery or disposition was made; and

(ii) The amount of any charge, and of any and all money or other reimbursement in any manner received by such handler, affiliate, or subsidiary from the producer in connection with the hauling of each such load of milk.

(5) Adjustments in calculating payments to such individual producer for the past months;

(c) In making payments to producers pursuant to paragraphs (a) and (b) of this section, the market administrator shall pay on or before the second day prior to the date specified in such paragraph to each cooperative association for all producers who market their milk through the cooperative association and who are certified to the market administrator by the cooperative association as having authorized the cooperative association to receive such payment an amount equal to the sum of the individual payments otherwise payable to such producers pursuant to paragraphs (a) and (b) of this section;

(d) If the market administrator does not receive the full payment required of a handler pursuant to § 1139.71, he shall reduce uniformly per hundredweight his payments to producers for milk received by such handler by a total amount not in excess of the amount due from such handler. The market administrator shall complete the payments to producers on or before the next date for making final payments pursuant to this section following the date on which the remaining payment is received from such handler; and

(e) If the unobligated balance in the producer-settlement fund is insufficient to make all payments pursuant to this section except those payments due producers as described in paragraph (d) of this section, the market administrator shall reduce uniformly per hundredweight his payments to producers and shall complete such payments on or before the next date for making payments pursuant to this section following the date on which the funds become available.

§ 1139.74 Producer butterfat differential.

The uniform price for producer milk shall be increased or decreased for each one-tenth percent that the butterfat content of the milk is above or below 3.5 percent, respectively, at the rate determined as follows:

(a) Compute the percentage of the total butterfat in producer milk assigned to each class pursuant to § 1139.44;

(b) Multiply each such percentage by the butterfat differential for the respective class pursuant to § 1139.55; and

(c) Add into one total the values obtained in paragraph (b) of this section, rounding the result to the nearest one-tenth cent.

§ 1139.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be adjusted according to the location of the pool plant at the rates set forth in § 1139.52, and the uniform price for producer milk diverted to a nonpool plant shall be adjusted according to the location of such nonpool plant at the rates set forth in § 1139.52.

(b) In computing obligations applicable to other source milk, the uniform price shall be adjusted at the rate set forth in § 1139.52 applicable at the location of the nonpool plant from which the other source milk was received, except that the adjusted price shall not be less than the Class III price.

§ 1139.76 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 §§ 1139.30(b) and 1139.31(c) 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 paragraph (a)(3) of this section 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 § 1139.60 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 paragraph (b)(1)(i) of this section. 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 § 1139.60 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 § 1139.60 for such handler shall include, in lieu of the value of other source milk specified in § 1139.60(f) less the value of such other source milk specified in § 1139.71(b)(2), a value of milk determined pursuant to § 1139.60 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 § 1139.7(b), subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1139.30(b) and 1139.31(c) 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 § 1139.60 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 paragraph (b)(1) of this section, subtract:

(i) The gross payments 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 paragraph (b)(1)(iii) of this section applies, the gross payments 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 paragraph (b)(1)(iii) of this section applies.

§ 1139.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts or other verification discloses errors resulting in money due the market administrator from such handler or due such handler from the market administrator, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which such error occurred.

§ 1139.78 Charges on overdue accounts.

Any unpaid obligation pursuant to §§ 1139.71, 1139.76, and 1139.77 shall be increased 1 percent each month beginning with the third day following the date such obligation was payable under the order. Any remaining amount due shall be increased at the same rate on the corresponding day of each month thereafter until paid. The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, and shall include any unpaid charges previously made pursuant to this section. For the purpose of this section any obligation that was determined at a date later than prescribed by the order because of a handler's failure to submit a report to the market administrator when due, shall be considered to have been payable by the date it would have

been due if the report had been filed when due.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1139.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 14th day after the end of the month 4c/cwt or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1139.44(a) (7) and (11) and the corresponding steps of § 1139.44(b), except such other source milk that is excluded from the computations pursuant to § 1139.60 (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 § 1139.76(a)(2).

§ 1139.86 Deduction for marketing services.

(a) The market administrator, in making payments to each producer pursuant to § 1139.73, shall deduct 7c/cwt, or such lesser amount as the Secretary may prescribe, with respect to the milk (except a handler's own farm production) of such producer for whom the marketing services set forth in paragraph (b) of this section are not being performed by a cooperative association as determined by the Secretary.

(b) The moneys deducted pursuant to paragraph (a) of this section shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. Such services shall be performed by the market administrator or by an agent engaged by and responsible to him.

Signed at Washington, D.C., on April 24, 1973.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

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