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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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A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1973, and specifies how they are affected.

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

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

[Sugar Reg. 811, Amdt. 4]

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 calendar year 1973, deficit findings were heretofore determined (37 FR 23624, 38 FR 10915) totaling 700,000 short tons, raw value, in the Puerto Rican Quota. On the basis of the most recent information available to the Department of 1973 crop sugar production in Puerto Rico, it is herein found that Puerto Rico will be unable to fill its quota by an additional 20,000 short tons, raw value. Accordingly, a total deficit is herein determined in the 1973 quota for Puerto Rico of 720,000 short tons, raw value.

On the basis of information recently available to the Department, the West Indies, Panama, and Honduras will be able to supply 110,207, 50,000, and 0 tons, respectively, of sugar to the United States in 1973. Therefore, it is herein found that the West Indies, Panama, and Honduras will be unable to supply their respective quota prorations under section 202 of the Act by 64,703, 4,764, and 10,189 tons. It is also found that the West Indies, Panama, and Honduras will be unable to fill deficit prorations previously allocated to them of 35,529, 11,125, and 2,070 tons, respectively. Accordingly, deficits are hereby determined in the quota for the West Indies, Panama, and Honduras of 100,232, 15,889, and 12,259 short tons, raw value, respectively.

The total deficits determined in quotas established under section 202 of the Act for domestic areas and the West Indies and Panama are reallocated by allocating 30.08 percent to the Republic of the Philippines and prorating the balance to Western Hemisphere countries with quotas in effect immediately prior to this amendment. The section 202 quota and deficit prorations assigned to Honduras are prorated to other Central American Common Market countries.

The marketing opportunities for the Domestic Beet Sugar Area and Puerto Rico within the basic quotas established for those areas will not be limited as a result of deficit determinations and prorations provided in this part 811.

It is hereby determined that deficits previously declared and those 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 subparagraph (a)(2) to read as follows:

§ 811.21 Quotas for domestic areas.

(a) * * *

(2) It is hereby determined, pursuant to section 204(a) of the Act, for the calendar year 1973, the Domestic Beet Sugar Area and Puerto Rico will be unable by 49,000 and 720,000 short tons, raw value, respectively, to fill the quotas established for such areas in paragraph (a)(1) of this section. Pursuant to section 204(b) of the Act, the determination of such deficits shall not affect the quotas established in paragraph (a)(1) of this section.

* * * * *

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

§ 811.22 Proration and allocation of deficits in quotas.

(a) The total deficits determined in quotas established under section 202 of the Act in short tons, raw value, are as follows: Domestic Beet Sugar Area 49,000; Puerto Rico 720,000; the West Indies 64,703; Panama 4,764; and Honduras 10,189. The deficits for the domestic areas, the West Indies and Panama totaling 838,467 tons are reallocated by allocating 30.08 percent or 252,211 tons to the Republic of the Philippines and by prorating the remaining 586,256 tons to Western Hemisphere quota countries with quotas in effect in accordance with section 204(a) of the Act, except such prorations to the West Indies and Panama are limited so that total quotas for each country will not exceed 110,207 and 50,000 tons, respectively. The section 202 quota and deficit prorations to Honduras are prorated to other Central American Common Market countries on the basis of quotas determined under 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 1,389,527 short tons, raw value, representing 1,126,020 short tons, established pursuant to section 202(b) of the Act, 252,211 short tons established pursuant to section 204(a) of the Act and 11,296 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 Philippines, pursuant to section 202 of the Act, are shown in columns (1) and (2) of the following table. Deficits and deficit prorations previously established in this Sugar Regulation 811 are shown in column (3). The 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	137,821	110,379	25,269	679,053
Mexico	358,689	121,885	97,618	22,346	600,538
Brazil	349,817	118,870	95,202	21,795	585,684
Peru	250,322	85,061	68,125	15,596	419,104
West Indies	130,548	44,362	35,529	−100,232	110,207
Ecuador	51,649	17,552	14,056	3,218	86,475
Argentina	48,480	16,474	13,194	3,020	81,168
Costa Rica	43,727	14,859	11,900	6,455	76,941
Colombia	43,093	14,644	11,728	2,685	72,150
Panama	40,875	13,889	11,125	−15,889	50,000
Nicaragua	40,875	13,889	11,125	6,033	71,922
Venezuela	38,974	13,245	10,607	2,428	65,254
Guatemala	37,390	12,705	10,175	5,520	65,790
El Salvador	27,250	9,260	7,416	4,023	47,949
British Honduras	21,547	7,321	5,863	1,343	36,074
Haiti	19,645	6,676	5,347	1,223	32,891
Honduras	7,605	2,584	2,070	−12,259	
Bolivia	4,119	1,400	1,121	257	6,897
Paraguay	4,119	1,400	1,121	257	6,897
Australia	159,065	44,951			204,016
Republic of China	66,221	18,715			84,939
India	63,689	17,999			81,688
South Africa	44,994	12,715			57,709
Fiji Islands	34,855	9,850			44,705
Mauritius	23,448	6,626			30,074
Swaziland	23,448	6,626			30,074
Thailand	14,576	4,118			18,694
Malawi	11,724	3,313			15,037
Malagasy Republic	9,506	2,686			12,192
Ireland	5,351				5,351
Total	2,381,188	781,496	523,701	−6,912	3,679,473

[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, and 932; and 7 U.S.C. 1111, 1112, 1114, and 1153.)

Effective date.—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 June 1, 1973.

Signed at Washington, D.C., on May 30, 1973.

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

[FR Doc.73-11167 Filed 6-1-73;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Grapefruit Regulation 38, Amendment 2]

PART 909—GRAPEFRUIT GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Shipments

This amendment, effective during the period June 4, through August 31, 1973, provides an increased tolerance of 15 percent for grapefruit which fail to meet the U.S. No. 2 grade requirements of fairly well formed, and lowers the minimum size requirement for grapefruit shipped to destinations in Arizona and California from 3$^9/_{16}$ inches in diameter to 3$^1/_{16}$ inches in diameter. By permitting shipment of off-shape and smaller sized fruit, the amendment would serve the interests of producers and consumers by increasing the supply of grapefruit that may be shipped to markets during the period of seasonally reduced volume.

Findings.—(1) Pursuant to marketing order No. 909, as amended (7 CFR pt. 909), regulating the handling of grapefruit grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the Administrative Committee (established under the aforesaid amended marketing order), and upon other available information, it is hereby found that the limitation of shipments of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) This amendment is based upon an appraisal of the current grapefruit crop and the current and prospective market conditions. It relaxes the minimum size requirement for grapefruit handled to destinations within California and Arizona and relaxes the minimum grade requirements for the handling of all grapefruit so as to permit the shipment of a larger portion of the remaining crop and to provide access to a larger market. The Administrative Committee reported that there is a demand in California and Arizona for grapefruit of the smaller sizes and there are more small size fruit available, particularly in the Phoenix subdistrict. It also reported that some handlers have fruit of the "Ruby" type available which, when grown in clusters, tends to be asymmetrical in form at the stem end. Therefore, on May 25, 1973, the Committee unanimously recommended relaxing the minimum size and grade requirements as is indicated above, in order to allow desert grapefruit handlers to ship smaller fruit and to meet the demand for such grapefruit in California and Arizona and to provide an additional tolerance for the handling of grapefruit which are not fairly well formed.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication thereof the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective date. The Administrative Committee held a meeting on May 25, 1973, to consider recommendation for regulation; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting; information regarding the provisions of the regulation recommended by the Committee has been disseminated to shippers of grapefruit, grown as aforesaid; this amendment is identical with the recommendation of the Committee; it is necessary, in order to effectuate the declared policy of the act, to make this amend.nent effective on the date hereinafter set forth; and, compliance with this amendment will not require any special preparation on the part of the persons subject thereto which cannot be completed on or before the effective date hereof, and this amendment relieves restrictions on the handling of grapefruit.

Order.—In § 909.338 (Grapefruit Regulation 38; 37 FR 28409; 38 FR 8508), the provisions of paragraph (a)(1) and subdivisions (i) and (ii) thereof and of paragraph (a)(2) are amended to read as follows:

§ 909.338 Grapefruit Regulation 38.

(a) *Order.*—(1) Except as otherwise provided in paragraph (a)(2) of this paragraph, during the period June 4, 1973, through August 31, 1973, no handler shall handle from the State of California or the State of Arizona to any point outside thereof:

(i) Any grapefruit which do not meet the requirements for the U.S. No. 2 grade which for purpose of this section shall include the requirement that the grapefruit be fairly well colored, instead of slightly colored, and including as a part of the fairly well formed requirement, the requirement that the fruit be free from

peel that is more than 1 inch in thickness at the stem end (measured from the flesh to the highest point of the peel): *Provided*, That in lieu of the tolerance provided for the U.S. No. 2 grade, the following tolerances, by count, shall be allowed for the defects listed:

(*a*) 10 percent for fruit which is not at least fairly well colored;

(*b*) 10 percent for defects other than color, but not more than one-twentieth of this amount, or one-half of 1 percent shall be allowed for decay and not more than one-half, or 5 percent, shall be allowed for any single defect caused by broken skins, sunburn, scars, or peel that is more than 1 inch in thickness at the stem end;

(*c*) 15 percent in addition to the tolerance provided in (i) (*b*) for scars which are light colored, fairly smooth, with no depth and aggregate more than 25 percent of the fruit surface; and

(*d*) 15 percent in addition to the tolerance provided in (i) (*b*) for grapefruit failing to meet the requirements for fairly well formed, except no additional tolerance is provided for fruit having peel that is more than 1 inch in thickness at the stem end; or

(ii) Any grapefruit which measure less than 3$\frac{1}{16}$ inches in diameter, except that a tolerance of 5 percent, by count, for grapefruit smaller than 3$\frac{1}{16}$ inches shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerance specified in the revised "U.S. Standards for Grapefruit (California and Arizona)," 7 CFR 51.925–51.955: *Provided*, That in determining the percentage of grapefruit in any lot which are smaller than 3$\frac{1}{16}$ inches in diameter, such percentage shall be based only on the grapefruit in such lot which are of a size 3$\frac{11}{16}$ inches in diameter and smaller.

(2) Subject to the requirements of subparagraph (1) (i) of this paragraph, any handler may, but only as the initial handler thereof, handle grapefruit smaller than 3$\frac{1}{16}$ inches in diameter directly to a destination in zone 5 or zone 6.

* * * * *

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

Dated June 1, 1973, to become effective June 4, 1973.

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

[FR Doc.73–11313 Filed 6–5–73;8:45 am]

[Peach Regulation 3, Amendment 1]

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Regulation by Grades and Sizes

This amended regulation, issued pursuant to the Marketing Agreement and Order 917 (7 CFR 917) requires all California peaches shipped in interstate commerce, during the period June 7, 1973, through May 31, 1974, to grade at least U.S. No. 2 with not less than 80 percent U.S. No. 1 quality, and prescribes minimum size requirements, by varieties, during specified time periods. Except for the minimum size requirement specified in paragraph (d) the regulation is the same as that currenty in effect in § 917.430 (Peach Regulation 3; 38 FR 11064). The action is necessary to assure that the peaches shipped will be of suitable quality and size in the interest of consumers and producers. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Notice of the proposed amendment was given in the FEDERAL REGISTER on May 15, 1973 (38 FR 13028). During the period specified in the notice for the submission of written data, views, or arguments pertaining thereto, an exception was filed by Mr. Galen Geller, manager, on behalf of the Peach Commodity Committee, established pursuant to order 917, and the Fresh Peach Advisory Board established under the State of California marketing order for fresh peaches. The exception stressed that the original recommendation of the Peach Commodity Committee was that a minimum grade of U.S. No. 1 grade, with an additional tolerance of 10 percent for fruit that is not well formed but not badly misshapen be established during the 1973 season and requested that such recommendation be implemented. Careful consideration was given to all the data, views, and arguments presented in the exception in the light of the overall economic situation, the competitive fruit situation, and the expected supply and demand conditions for peaches.

It is concluded that the amendment as specified in the notice is appropriate for the supply and market situation expected to prevail during the 1973 peach shipping season and, consistent with the objectives of the act, will tend to assure consumers of an adequate supply of acceptable quality peaches, and maintain grower returns at a level consistent with the public interest.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendations and information submitted by the Peach Commodity Committee, established under the said amended marketing agreement and order, the exception, and other available information, it is hereby found that the limitation of handling of such peaches, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of such peaches are currently in progress and this amendment should be applicable to all peach shipments occurring during the effective periods specified herein in order to effectuate the declared policy of the act; (2) the amendment is the same as that specified in the notice; and (3) compliance with this amended regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

Order.—Section 917.430 (Peach Regulation 3; 38 FR 11064) is amended by revising paragraph (b) preceding subparagraph (1); paragraph (c) preceding subparagraph (1); and by adding a new paragraph (d), to read as follows:

§ 917.430 Peach Regulation 3.

* * * * *

(b) *Order.*—During the period May 7, 1973, through May 31, 1974, no handler shall handle:

* * * * *

(c) During the period May 7, 1973, through June 30, 1973, no handler shall handle any package or container of any variety of peaches not specifically named in subparagraph (2), (3), (4), (5), or (6) of paragraph (b) unless:

* * * * *

(d) During the period July 1, 1973, through October 31, 1973, no handler shall handle any package or container of any variety of peaches not specifically named in paragraph (b), (2), (3), (4), (5), or (6) of this section unless:

(1) Such peaches when packed in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 80 peaches in the lug box;

(2) Such peaches when packed in a No. 12B standard peach box are of a size that will pack, in accordance with the requirements of standard pack, not more than 70 peaches in the peach box; or

(3) Such peaches when packed in any container, other than a No. 22D standard lug box or a No. 12B standard peach box, measure not less than 2$\frac{3}{8}$ inches in diameter as measured by a rigid ring: *Provided*, That not more than 10 percent, by count, of peaches in any such container may fail to meet such diameter requirement.

Dated June 4, 1973.

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

[FR Doc.73–11366 Filed 6–5–73;8:45 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Loan and Purchase Regulations, 1973-Crop Dry Edible Bean Supp.]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1973-Crop Dry Edible Bean Loan and Purchase Program

On February 8, 1973, notice of proposed rulemaking regarding loan and purchase rates for 1973-crop dry edible

beans and detailed operating provisions to carry out the 1973 dry edible bean program was published in the FEDERAL REGISTER (38 FR 3607 and 3608). Five responses were received from interested individual farmers, farm organizations, and other interested parties. These responses included requests ranging from the inclusion in the program of two varieties of beans not considered desirable for price support to the elimination of the price support program. After considerations of all responses, it has been determined that loan and purchase rates for the individual classes remain the same as in 1972 program with certain exceptions that are necessary to bring the rates for all classes more nearly in line with historical prices. Other operating provisions for the 1973 crop remain the same as those for the 1972 crop.

The "General Regulations Governing Price Support for the 1970 and Subsequent Crops" (35 FR 7363 and 7781) and the "1970 and Subsequent Crops Dry Edible Bean Loan and Purchase Program Regulation" (35 FR 8537, 36 FR 8362 and 9001), which contain regulations of a general nature with respect to price support operations, are further supplemented for 1973-crop dry edible beans. The material previously appearing in this subpart in §§ 1421.140 through 1421.143 remains in full force and effect as to the crop to which it was applicable.

Sec.
1421.140 Purpose.
1421.141 Availability.
1421.142 Maturity of loans.
1421.143 Loan and purchase rates.

AUTHORITY.—Sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 301, 401, 63 Stat. 1053, 15 U.S.C. 714c, 7 U.S.C. 1421, 1441.

§ 1421.140 Purpose.

This supplement contains additional program provisions which, together with the provisions of the "General Regulations Governing Price Support for the 1970 and Subsequent Crops" and any amendments thereto or revisions thereof, and the "1970 and Subsequent Crop Dry Edible Bean Loan and Purchase Program Regulations," and any amendments thereto, apply to loans and purchases for 1973-crop dry edible beans.

§ 1421.141 Availability.

(a) *Loans.*—A producer desiring a CCC loan must request a loan on his eligible beans on or before March 31, 1974.

(b) *Purchases.*—To sell dry edible beans to CCC through the purchase program, a producer must execute and deliver to the appropriate county ASCS office on or before April 30, 1974, a purchase agreement (form CCC–614), indicating the approximate quantity of 1973-crop dry edible beans he will sell to CCC.

§ 1421.142 Maturity of loans.

Unless demand is made earlier, loans on dry edible beans will mature on April 30, 1974.

§ 1421.143 Loan and purchase rates.

The rate for beans placed under a loan other than a loan on beans stored commingled in an approved warehouse shall be the applicable basic rate specified in paragraph (a) of this section for the county in which the beans were produced, adjusted as provided in paragraph (d) of this section. The rate for loans on beans stored commingled in approved warehouse storage and for settlement of all loans and purchases shall be the applicable basic rate specified in paragraph (a) of this section for the county in which the beans were produced, adjusted in accordance with paragraphs (b), (c), and (d) of this section, and adjusted also, in the case of settlements, by such discounts as CCC may establish for class, grade, and quality factors not specified in this section which affect the value of the beans, such as (but not limited to) splits, damage, contrasting classes, and foreign material. The discounts established for the purposes of settlement will be based upon the market discounts for such factors at the time the beans are delivered to CCC, as determined by CCC. Producers may obtain schedules of such factors and discounts at county ASCS offices approximately 1 month prior to the loan maturity date. Except in the case of large lima beans, if the beans have been moved by truck to approved warehouse storage in a higher loan and purchase rate county, or if the warehouse guarantees delivery by truck to approved storage or on track in a higher loan and purchase rate county, the loan and purchase rate shall be determined on the basis of the basic loan and purchase rate specified in paragraph (a) of this section for the county in which the beans are stored or to which delivery is guaranteed, rather than the county in which the beans were produced. Settlement shall be made in accordance with the provisions of § 1421.23.

(a) *Basic county loan and purchase rates.*—The basic county loan and purchase rates per 100 pounds net weight for beans of all classes grading Prime Handpicked or U.S. No. 1 are as follows:

Class and area:	*Rate per 100 pounds prime handpicked or U.S. No. 1 in jute or polypropylene bags*
Pinto:	
Area I—in New Mexico, all counties	$6.57
Area II—Idaho, Kansas, Nebraska, Oklahoma, Texas, and Washington. In Colorado, the counties of Larimer, Boulder, Gilpin, Clear Creek, Jefferson, Teller, Fremont, Pueblo, Huerfano, and Las Animas and all counties east thereof in Colorado. In Wyoming the counties of Converse, Goshen, Laramie, and Platte	6.47
Area III—Arizona, California, Montana, South Dakota, and Utah. In Wyoming, all counties not in Area II. In Colorado, all counties not in Area II	6.27
Area IV—other States	6.07
Great northern:	
Area I—Nebraska, Minnesota, and North Dakota. In Colorado, all counties east of 106° longitude. In Wyoming, the counties of Converse, Goshen, Laramie, and Platte	7.21
Area II—South Dakota, Montana, and Idaho. In Wyoming, all counties not in Area I and in Oregon, Malheur County	7.01
Area III—other States and counties	6.71
Pea (Navy), U.S. No. 1 and U.S. prime handpicked pea beans:	
Area I—Michigan, New York, Maine, Minnesota, and Wisconsin	6.70
Area II—other States	6.20
Small White and Flat Small White	7.80
Dark Red Kidney	8.51
Light Red Kidney	8.70
Pink	7.32
Small Red:	
Area I—Idaho, Colorado, and Washington	7.47
Area II—other States	7.42
Large lima	10.39
Baby lima	6.39

(b) *Premium.*

	Cents per 100 pounds
Grade U.S. CHP (Pea beans)	25
Grade U.S. CHP (all other beans)	10
Grade U.S. Extra No. 1	10

(c) *Discount.*

	Cents per 100 pounds
Grade U.S. No. 2	25
Paper package	09

(d) *Deduction for processing charges.*—In the case of beans which have not been processed (i.e., commercially cleaned), the rate shall be reduced by the following amounts (except for beans stored commingled in an approved warehouse):

	Dollars per 100 pounds from U.S. No. 1 rate
All States except Michigan and New York	$1.00
Michigan, Pea beans only	1.00
Michigan, other classes	1.50
New York	2.00

Effective date.—June 6, 1973.

Signed at Washington, D.C., on May 30, 1973.

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

[FR Doc.73-11246 Filed 6-5-73;8:45 am]

PART 1427—COTTON

Subpart—Seed Cotton Loan Program Regulations

On January 30, 1973, notice of proposed rulemaking regarding whether a seed cotton loan program for 1973-crop

upland and American Pima cotton should be offered, loan levels, and detailed operating provisions to carry out the program were published in the FEDERAL REGISTER (38 FR 2766). Responses received recommended that the program be offered in 1973 and that several changes be made in the operating provisions. After consideration of the responses received, it has been determined that the program will be offered in 1973 and that approval of gin locations will be made by State committees or their designees. Other operating provisions will remain basically the same as those for the 1972 program.

The regulations issued by Commodity Credit Corporation and published as "Subpart—Seed Cotton Loan Program Regulations" in the FEDERAL REGISTER (37 FR 11717 and 12219) are hereby revised to read as set forth below, effective as to the 1973 and subsequent crops of cotton. The material previously appearing in this subpart remains in full force and effect as to the crops to which this material was applicable.

Sec.
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AUTHORITY.—Secs. 4, 5, 62 Stat. 1070, as amended; 15 U.S.C. 714 b and c.

§ 1427.160 General statement.

The regulations in this subpart, including any amendments hereto, set forth the requirements with respect to recourse loans on eligible upland and American Pima seed cotton of the 1973 and subsequent crops of cotton for which a seed cotton loan program is authorized. Recourse loans will be made available by CCC through county offices to eligible cotton producers and approved cotton cooperative marketing associations at approved locations.

§ 1427.161 Administration.

(a) *Responsibility.*—The Commodity Loan and Service Division, Agricultural Stabilization and Conservation Service, will administer the provisions of this subpart under the general supervision and direction of the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service, in accordance with program provisions and policy determined by the CCC Board of Directors and the President or Executive Vice President, CCC. In the field, the program in this subpart will be administered by the Agricultural Stabilization and Conservation State and county committees and the Kansas City office.

(b) *Limitation of authority.*—County executive directors, State and county committees, the Kansas City office, and employees thereof do not have authority to waive or modify any of the provisions of the regulations in this subpart.

(c) *State committee.*—The State committee may take any action authorized or required by the regulations in this subpart to be taken by the county committee which has not been taken by such committee. The State committee may also (1) correct or require a county committee to correct any action taken by such county committee which is not in accordance with the regulations in this subpart, or (2) require a county committee to withhold taking any action which is not in accordance with the applicable regulations in this subpart.

(d) *Executive Vice President, CCC.* No delegation herein to a State or county committee or the Kansas City office shall preclude the President or Executive Vice President, CCC, or his designee, from determining any question arising under the regulations in this subpart or from reversing or modifying any determination made by a State or county committee or the Kansas City office.

§ 1427.162 Availability of loans.

(a) *Locations.*—Loans on eligible seed cotton shall be available only at locations where conditions make it feasible, subject to the approval of the State committee, or its designee, of the State in which the gin is located. Approval of such locations will be based upon the climatic conditions of the area, the type storage suitable for the area, and other conditions that are determined necessary in order to protect the interest of CCC and producers. A ginner who desires approval and desires to participate in the program shall submit an application for a determination of eligibility. An application form, related questionnaire, and copy of these regulations may be obtained from the State or county office. Such applications should be filed as soon as possible, before the ginning season starts.

(b) *Period of availability.*—Loans will be available from the beginning of harvest through March 31 following the calendar year in which such crop is grown.

§ 1427.16 Disbursement of loans.

(a) *Where to request loans.*—A producer shall request a loan at the local county office for the county where the cotton is stored, which will assist the producer in completing the loan documents.

(b) *Disbursement of loans.*—Disbursement of each loan will be made by the county office of the county in which the cotton is stored by means of drafts drawn on CCC by the county office. Service charges shall be deducted from the loan proceeds. The producer or his agent shall not present the loan documents for disbursement unless the cotton is in existence and in good condition. If the cotton is not in existence and in good condition at the time of disbursement, the producer shall immediately return the draft issued in payment of the loan or, if the draft has been negotiated, shall promptly return the proceeds.

§ 1427.164 Eligible producer.

(a) *Producer.*—An eligible producer is any individual, partnership, corporation, association, trust, estate, or other legal entity, a State or political subdivision thereof, or an agency of such State or political subdivision producing eligible upland or eligible American Pima seed cotton in the capacity of landowner, landlord, tenant, or sharecropper. If eligible seed cotton is produced on a farm by a landlord and his share tenant or sharecropper, a loan may be obtained only as follows:

(1) If the seed cotton is divided among the producers entitled to share in such cotton, each landlord, tenant, or sharecropper may obtain a loan on his separate share.

(2) If the seed cotton is not divided, all producers having a share in the seed cotton may obtain a joint loan on such cotton.

(b) *Estates and trusts.*—A receiver of an insolvent debtor's estate, an executor or an administrator of a deceased person's estate, a guardian of the estate of a ward or an incompetent person, and a trustee of a trust estate shall be considered to represent the insolvent debtor, the deceased person, the ward or incompetent person, and the beneficiaries of the trust, respectively, and the production of the receiver, executor, administrator, guardian, or trustee shall be considered to be the production of the person he represents. Loan documents executed by any such person will be accepted by CCC only if they are legally valid and such person has the authority to sign the applicable documents.

(c) *Eligibility of minors.*—A minor who is otherwise an eligible producer shall be eligible for a loan only if he meets one of the following requirements: (1) The right of majority has been conferred on him by court proceedings or by statute; (2) a guardian has been appointed to manage his property and the applicable loan documents are signed by the guardian; (3) any note signed by the minor is cosigned by a financially responsible person; or (4) a bond is furnished under which a surety guarantees to protect CCC from any loss incurred for which the minor would be liable had he been an adult.

(d) *Approved cooperative.*—A cooperative marketing association which is approved by the Executive Vice President, CCC, pursuant to part 1425 of this chapter, to obtain loan(s) on a crop of cotton, may obtain loans on eligible production of such crop on behalf of its members provided the marketing agreement between the producer and the cooperative gives the cooperative such authority. The term "producer" as used in this subpart and on applicable forms

shall refer both to an eligible producer as defined in paragraphs (a), (b), and (c) of this section and to an approved cooperative marketing association unless the content otherwise requires.

§ 1427.165 Eligible seed cotton.

Upland and American Pima seed cotton produced by eligible producers is eligible cotton if it meets the following requirements:

(a) Such cotton must be tendered for a loan within the availability period of § 1427.162.

(b) Upland cotton must have been produced by a "cooperator" as defined in section 408(b) of the Agricultural Act of 1949, as amended, on a farm determined to be in compliance with the set-aside payment requirements of the upland cotton program as prescribed in parts 718, 722, and 791 of this title and any amendments thereto. American Pima cotton must have been produced by a "cooperator" as defined in section 408(b) of the Agricultural Act of 1949, as amended on a farm determined to be in compliance with price support payment requirements of the extra loan staple cotton program as prescribed in parts 718, 722, and 791 of this title and any amendments thereto.

(c) Such cotton must be in existence and in good condition.

(d) The producer tendering the cotton for loan must have the legal right to pledge it as security for a loan.

(e) Such cotton must not have been produced on land owned by the Federal Government if such land is (1) leased subject to restrictions prohibiting the production of cotton, or requiring the use of the land for other purposes, or prohibiting cotton price support loans, (2) occupied without a lease, permit, or other right of possession, (3) in a national wildlife refuge, or (4) covered by a lease which was renewed or executed after March 22, 1973, unless the land was acquired by an agency having the right of eminent domain and leased back to the former owner with uninterrupted possession.

(f) The producer tendering such cotton must not have previously sold and repurchased such cotton or placed it under CCC loan and redeemed it.

(g) The beneficial interest in the cotton must be in the producer tendering the cotton for a loan and must have always been in him or in him and a former producer whom he succeeded before it was harvested. To meet the requirements of succession to a former producer, the right, responsibilities, and interest of the former producer with respect to the farming unit on which the cotton was produced shall have been substantially assumed by the person claiming succession. Mere purchase of the crop prior to harvest without acquisition of any additional interest in the farming unit shall not constitute succession. The county committee shall determine whether the requirements with respect to succession have been met. A producer shall not be considered to have divested himself of the beneficial interest in the cotton if he enters into a contract to sell, or gives an option to buy his cotton, if, under the contract or option, he retains control and risk of loss of and title to the cotton, and retains controls of its production. If a loan is made available through an approved cooperative marketing association, the beneficial interest in the cotton must always have been in the producer-members who delivered the cotton to the approved cooperative or its member cooperatives or must always have been in them and former producers whom they succeeded before the cotton was harvested. Cotton so delivered to a cooperative marketing association shall not be eligible for a loan if the producer-members who delivered the cotton to the cooperative or its member cooperatives do not retain the right to share in the proceeds from the cotton as provided in part 1425 of this chapter.

(h) If the person tendering the cotton for a loan is a landowner, landlord, tenant, or sharecropper, the cotton must be his separate share of the crop and must not have been acquired by him directly or indirectly from a landowner, landlord, tenant, or sharecropper, or have been received in payment of fixed or standing rent.

(i) The cotton must be stored in identity preserved lots in approved storage meeting requirements of § 1427.171.

§ 1427.166 Insurance.

The cotton must be insured at the full loan value against loss or damage by fire.

§ 1427.167 Liens.

If there are any liens or encumbrances on the cotton, waivers that will fully protect the interest of CCC must be obtained even though the liens or encumbrances are to be satisfied from the loan proceeds, except in the case of approved cooperatives who agree to hold CCC harmless from liability to prior lienholders. In lieu of waiving his prior lien on the cotton tendered as security for a loan, a lienholder may execute a Lienholder's Subordination Agreement (form CCC–864) with CCC in which he subordinates his security interest to the rights of CCC in the cotton. A fraudulent representation as to prior liens or otherwise will render the producer liable under the civil frauds statutes and subject him and any other person who causes the fraudulent representation to be made to criminal prosecution under the provisions of the Commodity Credit Corporation Charter Act.

§ 1427.168 Forms, authorizations, and other documents.

The documents to be delivered by producers in connection with each loan shall be as follows: A note, chattel mortgage, and security agreement, any required lien waiver or subordination agreement, and such other documents as may be required by CCC.

§ 1427.169 Loan rate and quality.

(a) *Loan rate.*—The loan rate applicable to each quality of seed cotton placed under loan shall be the loan rate as specified in the applicable crop supplement to this part 1427, "Cotton Loan Program Regulations," for that quality of cotton in the county where stored.

(b) *Quality.*—The quality to be used in determining the loan rate shall be the estimated quality of lint cotton in each lot of seed cotton as determined by the county office, except that if a control sample of the lot of cotton is classed by a USDA Board of Cotton Examiners, the quality for the lot shall be the quality shown on the form 1 or form 3 classification card issued for the control sample.

§ 1427.170 Quantity for loan.

(a) *Quantity.*—The quantity of lint cotton in each lot of seed cotton tendered for loan shall be determined by the county office by multiplying the weight or estimated weight of the seed cotton by the lint turnout factor determined in accordance with paragraph (b) of this section.

(b) *Lint turnout factor.*—The lint turnout factor for any lot of seed cotton shall be the percentage determined by the county committee representative during the initial inspection of the lot. If a control portion of the lot is weighed and ginned, the lint turnout factor determined for the portion of cotton ginned will be used for the lot. If a control portion is not weighed and ginned, the lint turnout factor shall not exceed 32 percent for machine picked cotton and 22 percent for machine stripped cotton unless acceptable proof is furnished showing that the lint turnout factor is greater.

(c) *Maximum quantity for loan.*—Loans shall not be made on more than a percentage established by the county committee of the quantity of lint cotton determined as provided in this section. If the seed cotton is weighed, the percentage to be used shall not be more than 95 percent. If the quantity is determined by measurement, the percentage to be used shall not be more than 90 percent. The percentage to be used in determining the maximum quantity for any loan may be reduced below such percentages by the county committee when determined necessary to protect the interests of CCC on the basis of one or more of the following risk factors: (1) Condition or suitability of the storage site or structure, (2) condition of the cotton, (3) location of the storage site or structure, and (4) other factors peculiar to individual farms or producers which relate to the preservation or safety of the loan collateral. Loans may be made on a lower percentage basis at the producer's request.

§ 1427.171 Approved storage.

Approved storage shall consist of storage located on or off the producer's farm (excluding public warehouses) which is determined by a county committee representative to afford adequate protection against loss or damage and which is located within a reasonable distance, as determined by CCC, of an approved gin. If the cotton is stored off the producer's farm, the producer must furnish satisfactory evidence that he has the authority to store the cotton on such property

and that the owner of such property has no lien for such storage against the cotton.

§ 1427.172 Loan service fee.

A producer shall pay a loan service fee of $8 for each loan disbursed. This fee is not refundable.

§ 1427.173 Interest rate.

Loans shall bear interest at the same rate as that announced for warehouse stored cotton loans in a separate notice published in the FEDERAL REGISTER.

§ 1427.174 Restrictions in use of agents.

A producer shall not delegate to any person (or his representative) who has any interest in storing, processing, or merchandising any seed cotton eligible for loans under these regulations, authority to exercise on behalf of the producer any of the producer's rights or privileges under this program or any note, chattel mortgage and security agreement, or other instrument executed in obtaining loans under such program, unless the person to whom authority is delegated is serving in the capacity of a farm manager for the producer or a ginner who is approved to gin the producer's cotton. If the producer designates the ginner to act in his place and stead, all proceeds to be disbursed under the seed cotton note shall be disbursed directly to the producer or a prior lienholder other than the ginner. If the ginner is the agent for the producer, the ginner shall not make any purchase of the seed cotton redeemed from a loan or the producer's equity in such cotton for his own account or as agent for others or redeem or sell any such cotton or equities therein to any person by whom he is employed or has the right to control or direct his sale of the seed cotton, the equity therein, or the lint cotton produced therefrom. Any delegation of authority given in violation of this paragraph shall be without force and effect and shall not be recognized by CCC.

§ 1427.175 Setoffs.

(a) *Facility and drying equipment loans.*—If any installment or installments on any loan made by CCC on farm storage facilities or drying equipment are due and payable under the provisions of the note evidencing such loan out of any amount due the producer under the regulations in this subpart, the amount due the producer, after deduction of applicable fees and charges and amounts due prior lienholders, shall be applied to satisfy the amounts due and payable on such installment(s).

(b) *Producers listed on county claim control record.*—If the producer is indebted to CCC or to any other agency of the United States and such indebtedness is listed on the county claim control record, amounts due the producer under the regulations in this subpart, after deduction of amounts due and payable on farm storage facilities or drying equipment and other amounts provided in paragraph (a) of this section, shall be applied as provided in the Secretary's "Setoff Regulations," part 13 of this title, to such indebtedness.

(c) *Producer's right.*—Compliance with the provisions of this section shall not deprive the producer of any right he would otherwise have to contest the justness of the indebtedness involved in the setoff action, either by administrative appeal or by legal action.

§ 1427.176 Loss or damage to the cotton.

The producer is responsible for any loss in quantity or quality of the cotton under loan.

§ 1427.177 Maturity.

Loans on seed cotton are due and payable on May 31 following the calendar year in which such crop is grown, or upon such earlier date as CCC may make written demand for payment in order to be in a position to conform to State or local quarantine regulations or for other reasons.

§ 1427.178 Settlement.

(a) *Release of chattel mortgage.*—The chattel mortgage shall not be released until the loan has been satisfied in full. After satisfaction of a loan, the county executive director shall release the chattel mortgage.

(b) *Repayment of loan.*—A producer may, at any time prior to maturity of the loan, obtain release of all or any part of the loan cotton by paying the amount of the loan thereon, plus interest and charges to CCC.

(c) *Removal of loan cotton.*—A producer shall not remove from storage any cotton covered by a chattel mortgage until he has received prior written approval from the county committee for removal of such cotton. Any such approval shall be subject to the terms and conditions set out in the approval form. If a producer obtains such approval, he may remove such cotton from storage, sell the seed cotton, have it ginned, and sell the lint cotton and cottonseed obtained therefrom. The ginner shall inform the county office in writing immediately after the cotton removed from storage has been ginned and furnish the county office the loan number, producer's name, and applicable gin bale numbers. If the seed cotton is removed from storage, the loan, interest, and charges thereon must be satisfied not later than (1) the date established by the county committee, (2) promptly after the producer receives the class cards (and the warehouse receipts, if the cotton is delivered to a warehouse), representing such cotton, or the loan maturity date, whichever is earliest. If the seed cotton or lint cotton is sold, the loan, interest, and charges must be satisfied immediately. A producer (except a cooperative) may obtain a warehouse storage loan on the lint cotton, but the loan, interest, and charges on the seed cotton must be satisfied out of the proceeds of the warehouse storage loan. An approved cooperative must repay the seed cotton loan, interest, and charges before pledging the cotton for a warehouse storage loan. Any such removal from storage shall not be deemed to constitute a release of CCC's security interest in the cotton or to release the producer from liability for the loan, interest, and charges if full payment of such amount is not received by the county office.

(d) *Cotton going out of condition.*—If, either before or after maturity, the producer discovers that the cotton is going out of condition or is in danger of going out of condition, the producer shall immediately so notify the county office and confirm such notice in writing. If the county committee determines that the cotton is going out of condition or is in danger of going out of condition, the county committee will call for repayment of the loan on or before a specified date. If the producer does not repay the loan or have the cotton ginned and obtain a warehouse storage loan on the lint cotton produced therefrom within the period as specified by the county committee, the cotton shall be considered abandoned.

(e) *Need for removal from storage.*—If the producer has control of the storage site and if he subsequently loses control of the storage site or there is danger of flood or damage to the cotton or storage structure making continued storage of the cotton unsafe, the producer shall immediately either repay the loan or move the cotton to the nearest approved gin for ginning and shall, at the same time, inform the county office. If the producer does not do so, the cotton shall be considered abandoned.

§ 1427.179 Fraud and unlawful disposition.

The making of any fraudulent representation by a producer in the loan documents, in obtaining a loan, or in connection with settlement, or the unlawful disposition of any portion of the cotton by him, shall render the producer and any other person who causes such fraudulent representation to be made subject to criminal prosecution or action under civil frauds statutes under Federal law.

§ 1427.180 Foreclosure.

Any seed cotton pledged to CCC as security for loan which is abandoned or which has not been removed from storage by loan maturity may be removed from storage by CCC and ginned and the resulting lint cotton warehoused for the account of CCC. The lint cotton and cottonseed may be sold, at such time, in such manner, and upon terms as CCC may determine at public or private sale. CCC may become the purchaser of the whole or any part of such cotton and cottonseed. If the proceeds are less than the amount due on the loan (including interest, ginning charges, and any other charges incurred by CCC), the producer shall be liable for such difference. Any overplus remaining from the proceeds received therefrom, after deducting from such proceeds the amount of the loan, interest, ginning charges and any other charges, shall be paid to the producer or his personal representative without

right of assignment to or substitution of any other person.

§ 1427.181 Definitions.

As used in the regulations in this subpart, and in all instructions, forms, and documents in connection therewith, the words and phrases listed in this section shall have the meaning assigned to them herein unless the context or subject matter otherwise requires:

(a) *General.*—The following words or phrases: "Person," "State committee," "State executive director," "county committee," "county executive director," and "farm," respectively, shall each have the same meaning as the definitions of such terms in the "Regulations Governing Reconstitution of Farms, Allotments, and Bases," part 719 of this title, and any amendments thereto.

(b) *CCC.*—The term "CCC" shall mean Commodity Credit Corporation.

(c) *Kansas City office.*—The term "Kansas City office" shall mean the Kansas City ASCS Data Processing Center, P.O. Box 205, Kansas City, Mo. 64141.

(d) *County committee.*—The term "county committee" shall mean only the county committee and not its representative.

(e) *County office.*—The term "county office" shall mean the Agricultural Stabilization and Conservation county office.

(f) *Chattel mortgage.*—The term "chattel mortgage" means any security instrument which secures a loan under this subpart.

(g) *Charges.*—The term "charges" means all fees, costs, and expenses incident to insuring, carrying, handling, storing, ginning, conditioning, and marketing the cotton and cottonseed and otherwise protecting the interest in the loan collateral of CCC or the producer.

(h) *Representative of the county committee and county committee representative.*—The terms "representative of the county committee" and "county committee representative" mean a member of the county committee, the county executive director, or a person designated by the county executive director to act in his behalf.

(i) *Seed cotton.*—The term "seed cotton" shall mean cotton which has not passed through the ginning process.

(j) *Lint cotton.*—The term "lint cotton" shall mean cotton which has passed through the ginning process.

Effective date.—June 6, 1973.

Signed at Washington, D.C., on May 30, 1973.

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

[FR Doc.73-11245 Filed 6-5-73;8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—LOANS PRIMARILY FOR PRODUCTION PURPOSES

[FHA Instruction 441.2]

PART 1832—EMERGENCY LOANS

Subpart A—Emergency Loan Policies and Authorizations

APPLICANTS IN AREAS FLOODED BY MISSISSIPPI AND TRIBUTARY RIVERS

In accordance with 5 U.S.C. 553, this new addition of § 1832.20 of subpart A of part 1832, title 7, Code of Federal Regulations, is being published without notice of proposed rulemaking, effective immediately, because a delay in implementing the provisions of this regulation would be contrary to the public interest. This new § 1832.20 modifies the policies and procedures relating to eligibility requirements for emergency loan applicants in areas flooded by the Mississippi and tributary rivers in the spring of 1973.

The new § 1832.20 of subpart A of part 1832, will read as follows:

§ 1832.20 Emergency loans in areas flooded by the Mississippi and tributary rivers during the spring of 1973.

(a) *General.*—This section modifies § 1801.3 of this chapter, § 1832.5, and other notifications of procedural changes in all FHA offices, by modifying eligibility requirements in areas named eligible for emergency loans because of flooding in the Mississippi River delta and tributary areas during the spring of 1973.

(b) *Eligibility requirements.* — (1) Many farmers will need funds to carry on their farming operations prior to the time floodwaters will recede, and actual production losses cannot be ascertained before harvesting in the fall of 1973. Otherwise eligible applicants for production-type emergency loans may be considered eligible if the county committee determines that normal crop production will be impossible; and the applicant's 1973 production losses will be at least as much or more than the percentage required in § 1832.5 (c).

(2) In such cases, Form FHA 441-22, "statement of production losses and certification," will be completed to show production for crop years 1971 and 1972. For the 1973 crop year, the number of acres which cannot be planted because of the flood will be shown for each crop. In addition any acreage of crops or pasture destroyed by the flood will be shown.

(c) *County committee certification or recommendation.*—The following certification will be added on Form FHA 440-2, "county committee certification or recommendation," in the blank space above the signature of the county committeemen: "The applicant is deemed to have sufficient production losses during the 1973 crop year to qualify for an emergency loan, because of his inability to plant crops or his inability to plant crops on time as a result of flooding."

(d) *Rates, terms, and security.*—Eligible applicants, who because some or all of their cropland cannot be planted during the 1973 crop season due to flooding, may receive loans for any authorized emergency loan purpose to enable them to carry on through this crop year provided the advance can be secured by a first lien on any crops that are produced with loan funds, and the best liens obtainable on chattels and/or real property necessary to adequately secure the loan, regardless of whether the total operation is a fiscally sound one in 1973. Repayment of such loans may be fully or partially deferred in accordance with § 1832.10(a). However, it must be clear when this is done that borrowers can be expected to pay their loans in full from normal farm income during the deferment period.

(e) *Processing applications.*—The provision contained in § 1801.3(c) of this chapter, requiring county committee action within 30 days will not apply to emergency loan applications received in the flooded areas specified in this new § 1832.20.

(Sec. 339, 75 Stat. 318, 7 U.S.C. 1989 (Con. Act) order of Secretary of Agriculture, 29 FR 16210, order of Acting Secretary of Agriculture, 36 FR 22008, order of Assistant Secretary of Agriculture for Rural Development and Conservation, 36 FR 21529.)

Dated May 30, 1973.

FRANK G. ELLIOTT,
Acting Administrator,
Farmers Home Administration.

[FR Doc.73-11247 Filed 6-5-73;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 73-EA-35; Amendment 39-1658]

PART 39—AIRWORTHINESS DIRECTIVE

De Havilland Aircraft

The Federal Aviation Administration is amending § 39.13 of part 39 of the "Federal Aviation Regulations" so as to amend AD 73-5-3, applicable to de Havilland DHC-6-type airplanes.

After study of the X-ray procedures prescribed by AD 73-5-3 it has been determined that a more definitive procedure is required to detect all cracks in the rear spar cap fitting. Because the inspection involved is a continuing one, it is determined that the change should be issued as expeditiously as possible so as to apply to as many upcoming inspections as possible. In view of the foregoing, notice and public procedure hereon

are impractical and the amendment may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 FR 13697) § 39.13 of part 39 of the "Federal Aviation Regulations" is amended so as to amend AD 73-5-3 as follows:

(1.) Add the following subparagraph to paragraph 1 of AD 73-5-3:

c. The X-ray exposure time in paragraph (a) and (b) is to be increased from 60 seconds to 120 seconds for the inboard X-ray tube location. Also, the X-ray beam angle is to be decreased from 10 degrees to 5 degrees for all X-ray tube locations.

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

This amendment is effective June 14, 1973.

Issued in Jamaica, N.Y., on May 29, 1973.

GEORGE M. GARY,
Director, Eastern Region.

[FR Doc.73-11217 Filed 6-5-73;8:45 am]

[Docket No. 73-EA-37, Amendment 39-1656]

PART 39—AIRWORTHINESS DIRECTIVES

Fairchild Hiller Aircraft

The Federal Aviation Administration is amending § 39.13 of part 39 of the "Federal Aviation Regulations" so as to issue an airworthiness directive applicable to Fairchild F-27 and FH-227 type airplanes.

There have been reports of cracks found in the vertical stabilizer attach fittings. Study has determined that the cracks can be attributable to stress corrosion. While the reports have been confined to F-27 type airplanes, similarity of design in the FH-227 requires inspection of the latter aircraft as well. The location of the deficiencies requires expeditious adoption of this amendment and therefore notice and public procedure hereon are unnecessary and good 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:

FAIRCHILD.—Applies to all Fairchild F-27 and FH-227 type aircraft certificated in all categories.

Compliance required as indicated:

1. Within the next 150 hours in service, unless already accomplished within the last 2350 hours in service, inspect the vertical stabilizer fittings P/N's 27-233000-11, -12, -31, -32, -41, -42 with 2500 hours or more in service for cracks using a dye penetrant method or a 10-power glass, and thereafter at intervals within 1 year but not to exceed 2500 hours in service.

2. Replace any cracked parts before further flight with parts of the same part number or equivalent parts approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region, except that the aircraft may be flown in accordance with FAR 21.197.

3. Within the next 500 hours in service, unless already accomplished, inspect the fittings around the flanges for corrosion using a boroscope and mirror. Replace any corroded parts before further flight except a flight may be flown in accordance with FAR 21.197. Further, to preclude accumulation of water in the hollow section of fitting, locate and drill a one-fourth inch diameter drain hole in skin equidistant between the two parallel rows of rivets and 1.77 inches above the top row of five-sixteenths flush screws; and fill hollow area with sealant (MIL-S-7502 or 8801) up to lower edge of hole.

4. Upon submission of substantiating data by an owner or operator, through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, may adjust the inspection intervals specified in this A.D.

(Fairchild Service Bulletins F-27-55-20 and FH-227-55-11 pertains to this subject.)

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

This amendment is effective June 14, 1973.

Issued in Jamaica, N.Y., on May 29, 1973.

GEORGE M. GARY,
Director, Eastern Region.

[FR Doc.73-11218 Filed 6-5-73;8:45 am]

[Docket No. 73-EA-38; Amendment 39-1657]

PART 39—AIRWORTHINESS DIRECTIVE

Grumman Aircraft

The Federal Aviation Administration is amending § 39.13 of the "Federal Aviation Regulations" so as to revise and renumber AD 72-13-5 applicable to Grumman G-21 type airplanes.

Since the issuance of AD 72-13-5, study has indicated that the inspection intervals in light of the history of the aircraft, which involves 20 years of operation, were too restrictive. However, it also appears that the area of inspection should be expanded to cover the entire torque-tube assembly instead of only the torque tube.

Because of the seriousness of cracks in this area, expeditious adoption of the amendment is required, making notice and public procedure hereon impractical. Further, good cause also 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 revising and renumbering AD 72-13-5 as follows:

GRUMMAN.—Applies to Grumman models G-21 and G-21A type airplanes (Army OA-9, Navy, JRF-1 through JRF-6B under TC6J4) certificated in all categories.

Compliance required as indicated:

1. To prevent hazards in flight associated with the failure of the elevator torque-tube assembly P/N 12755, rudder torque-tube assembly P/N 12756, left-hand and right-hand rudder pedal torque-tube assemblies P/N's 12757, 12758 and hinge support assembly P/N 12725, located below the cockpit floor, visually inspect these assemblies for cracks and corrosion within 1 month after the effective date of this AD unless already accomplished within the last 11 months and thereafter at intervals not to exceed 12 months in service from the last inspection.

2. On assemblies having 3,000 hours or more time in service or exceeding 36 months in service, within 1 month's time in service after the effective date of this AD unless already accomplished within the last 23 months and thereafter at intervals of 2,000 hours in service but not exceeding 24 months in service, remove and disassemble the elevator torque-tube assembly P/N 12755, rudder torque-tube assembly P/N 12756, the left-hand and right-hand rudder pedal torque-tube assemblies P/N's 12757 and 12758, and hinge support assembly P/N 12725. Inspect all parts for corrosion or cracks, using visual and dye penetrant or magnaflux inspection methods.

3. Before further flight, repair or replace corroded parts and replace cracked parts with new parts or with a used part inspected in accordance with this AD or with an equivalent part approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, except that the aircraft may be flown in accordance with FAR 21.197.

4. Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, may adjust the repetitive inspection interval specified in this A.D.

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

This A.D. supersedes A.D. 72-13-5.

This amendment is effective June 14, 1973.

Issued in Jamaica, N.Y., on May 29, 1973.

GEORGE M. GARY,
Director, Eastern Region.

[FR Doc.73-11219 Filed 6-5-73;8:45 am]

[Airspace Docket No. 73-EA-19]

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

Designation of Transition Area

Correction

In FR Doc. 73-10328 appearing at page 13634 in the issue of Thursday, May 24, 1973, in the second column under paragraph 1, starting with the 13th line in the description for the East Stroudsburg, Pa., transition area, delete "within a 13.5-mile radius of the center of the airport, extending clockwise from a 110° bearing a 177° bearing from the airport;".

[Docket No. 12859; Amdt. No. 866]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

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

The complete SIAP's for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260–3, 8260–4, or 8260–5 and made a part of the public rulemaking dockets of the FAA in accordance with the procedures set forth in Amendment No. 97–696 (35 FR 5609).

SIAP's are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Copies of SIAP's adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAP's may be purchased from the FAA Public Document Inspection Facility, HQ–405, 800 Independence Avenue SW., Washington, D.C. 20591, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150 pe rannum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30 each.

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

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

1. Section 97.21 is amending by originating, amending, or canceling the following L/MF SIAP's, effective July 12, 1973:

Fairbanks, Alaska—Fairbanks International Airport, LFR–A, amendment 8.

2. Section 97.23 is amended by originating, amending, or canceling the following VOR–VOR/DME SIAP's, effective July 12, 1973:

Fort Smith, Ark.—Fort Smith Municipal Airport, VOR/DME runway 7, amendment 3.
Fort Smith, Ark.—Fort Smith Municipal Airport, VOR runway 25, amendment 14.
Helena, Mont.—Helena Airport, VOR–A, amendment 9.
Helena, Mont.—Helena Airport, VOR/DME–B, amendment 1.
Holland, Mich.—Tulip City Airport, VOR–A, amendment 3.
Holland, Mich.—Park Township Airport, VOR–C, amendment 2.
San Angelo, Tex.—Mathis Field, VOR runway 21, amendment 11.
State College, Pa.—State College Air Depot, VOR–A, amendment 4.
State College, Pa.—University Park Airport, VOR–B, amendment 4.

* * * effective June 14, 1973:

Albany, N.Y.—Albany County Airport, VOR runway 1, amendment 12.
Albany, N.Y.—Albany County Airport, VOR/DME runway 1, amendment 3.
Albany, N.Y.—Albany County Airport, VOR runway 19, amendment 12.

* * * effective May 18, 1973:

Flint, Mich.—Bishop Airport, VOR runway 27, amendment 9.

* * * effective May 17, 1973:

Stevens Point, Wis.—Stevens Point Municipal Airport, VOR runway 3, amendment 6.

* * * effective May 16, 1973:

Fond du Lac, Wis.—Fond du Lac County Airport, VOR/DME runway 36, amendment 1.

3. Section 97.25 is amended by originating, amending, or canceling the following SDF–LOC–LDA SIAP's, effective July 12, 1973:

Fairbanks, Alaska—Fairbanks International Airport, LOC (BC) runway 1L, amendment 9.
Farmingdale, N.Y.—Republic Airport, LOC (BC) runway 32, original.
Fort Smith, Ark.—Fort Smith Municipal Airport, LOC (BC) runway 7, amendment 3.
Helena, Mont.—Helena Airport, LOC/DME runway 26, amendment 1.
San Angelo, Tex.—Mathis Field, LOC (BC) runway 21, amendment 7.

* * * effective June 14, 1973:

Sheridan, Wyo.—Sheridan County Airport, LOC runway 31, original.

4. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAP's, effective July 12, 1973:

Fairbanks, Alaska—Fairbanks International Airport, NDB runway 19R, amendment f4.
Fort Smith, Ark.—Fort Smith Municipal Airport, NDB runway 7, amendment 2.
Fort Smith, Ark.—Fort Smith Municipal Airport, NDB runway 25, amendment 19.
Holland, Mich.—Park Township Airport, NDB–B, amendment 1.
San Angelo, Tex.—Mathis Field, NDB runway 3, amendment 8.

* * * effective June 28, 1973:

Charlottesville, Va.—Charlottesville-Albemarle Airport, NDB runway 3, amendment 5.

* * * effective June 14, 1973:

Utica, Mich.—Berz-Macomb Airport, NDB runway 22, original.

5. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAP's, effective July 12, 1973:

Fairbanks, Alaska—Fairbanks International Airport, ILS runway 19R, amendment 14.
Fort Smith, Ark.—Fort Smith Municipal, ILS runway 25, amendment 13.
Helena, Mont.—Helena Airport, ILS runway 26, amendment 1.
San Angelo, Tex.—Mathis Field, ILS runway 3, amendment 11.

* * * effective May 17, 1973:

Rockford, Ill.—Greater Rockford Airport, ILS runway 36, amendment 17.

6. Section 97.31 is amended by originating, amending, or canceling the following Radar SIAP's, effective July 12, 1973:

Fairbanks, Alaska—Fairbanks International Airport, Radar–1, amendment 6.
Fort Wayne, Ind.—Fort Wayne Municipal (Baer Field) Airport, Radar–1, amendment 9.

7. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAP's, effective July 12, 1973:

Fort Smith, Ark.—Fort Smith Municipal Airport, RNAV runway 07, amendment 2.

Correction

In docket No. 12719, amendment 859, to part 97 of the "Federal Aviation Regulations," published in the FEDERAL REGISTER dated April 13, 1973, on page 9292, under § 97.23, effective May 24, 1973, change effective date of Albany, N.Y., Albany County Airport, VOR runway 1, amendment 12; VOR/DME–1, amendment 3; VOR runway 19, amendment 12, to June 14, 1973.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1948; 49 U.S.C. 1438, 1354, 1421, 1510; sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c), 5 U.S.C. 552(a)(1).)

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

JAMES M. VINES,
Chief,
Aircraft Programs Division.

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

[FR Doc.73–11124 Filed 6–5–73;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Regulation ER–804, Amendment 4]

PART 250—PRIORITY RULES, DENIED BOARDING COMPENSATION TARIFFS AND REPORTS OF UNACCOMMODATED PASSENGERS

Amendment of Definition of "Confirmed Reserved Space" To Include Reservations of Space in Any Manner Provided Therefor by a Carrier's Tariff

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 23d day of May 1973.

By supplemental notice of proposed rulemaking, PSDR–30B/EDR–219,[1] the Board invited comment on two alternative proposals to deal with the problem of oral reservations of airline space: (1) A twin proposal comprised of (a) an amendment to part 399 to establish a policy that the Board considers the paractice of air carriers or ticket agents in confirming reserved space by means other than ticket notation as an unfair or

[1] Mar. 1, 1972, 37 FR 4723, docket 23310.

deceptive practice, except when the carrier's tariff provides for confirmation by such other means; and (b) a concomitant amendment to the part 250 definition of "confirmed reserved space" so as to include reservations of space in any manner provided therefor by the carrier's tariff; or (2) an amendment of only the part 250 definition of "confirmed reserved space," so as to make available the remedy of denied boarding compensation to all prospective passengers who have been given an oral confirmation of reserved space, regardless of whether the particular carrier's tariff provides for valid oral reservations. For the reasons discussed in PS-52, issued contemporaneously herewith, the Board has determined to adopt the first alternative proposed including the aforesaid amendment to part 250.

It should also be noted that in PSDR-30B, the Board stated that it intended, if either of the proposed amendments to part 250 were adopted, to make appropriate implementing modifications to the reports of unaccommodated passengers required by § 250.10. Accordingly, we have amended that section to require air carriers covered by part 250 to indicate separately, in their filed form 250 and 251 reports, the number of denied boardings based on reservations noted on the passenger's ticket and the number of denied boardings based on reservations made by other means.[2]

In consideration of the foregoing, the Civil Aeronautics Board hereby amends part 250 of the "Economic Regulations" (14 CFR, pt. 250) effective August 6, 1973, as follows:

1. Amend § 250.1 by revising the definition of "Confirmed reserved space" to read as follows:

§ 250.1 Definition.

For the purposes of this part:

* * * * *

"Confirmed reserved space" means space on a specific date and on a specific flight and class of service of a carrier which has been requested by a passenger and which the carrier or its agent has verified, by appropriate notation on the ticket or in any other manner provided therefor by the carrier's tariff, as being reserved for the accommodation of the passenger.

* * * * *

2. Amend § 250.10 to read as follows:

§ 250.10 Reports of unaccommodated passengers.

Carriers shall file with the Bureau of Accounts and Statistics, in CAB form 250 (appendix A of this part) a report, with respect to the applicable market specified hereinafter, of the total number of revenue passengers boarded and the number of unaccommodated passengers in three categories: Denied boarding on aircraft, downgrades, and upgrades. In the category "denied boarding on aircraft" there shall also be stated, separately, the number of denied boardings based on reservations noted on the passenger's ticket and the number of denied boardings based on reservations made by other means. The markets for which such reports shall be filed are those for which ontime reporting is filed in accordance with part 234 of the Board's economic regulations and, in addition, New York-San Juan. Local service carriers shall, in addition to reports which may be required by part 234, file such data for the five top-ranking markets of each. The reports shall cover the third month in each calendar quarter and shall be filed wthin 45 days after the month covered by the report. In addition, carriers shall file, on a monthly basis, the information requested in appendix B of this part (CAB form 251). These reports may be on a system basis or limited to those stations accounting for 67 percent of the carrier's total enplanements, or the top 15 stations, whichever number is greater. The information in item 4 shall be limited to the passengers enplaned at the reported stations and not the system total. Further, a list of the stations included should be appended to each report. These reports are to be submitted within 30 days after the month covered by the report. Those carriers with both domestic and international operations shall file separate reports for each. The information contained in CAB form 250 covering international operations shall be withheld from public disclosure.

(Secs. 102, 204(a), 403, 404, 411, 416, 416(a), Federal Aviation Act of 1958, as amended (71 Stat. 740, 745, 758, 760, 769, 771; 49 U.S.C. 1362, 1324, 1373, 1374, 1381 and 1386) secs. 3 and 4 of the Administrative Procedure Act (81 Stat. 54, 80 Stat. 383; 5 U.S.C. 552 and 553).)

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] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.73-11296 Filed 6-5-73;8:45 am]

SUBCHAPTER F—POLICY STATEMENTS

[Regulation PS-52, Amendment 31]

PART 399—STATEMENTS OF GENERAL POLICY

"Confirmed Reserved Space" by Means Other Than Ticket Notation as an Unfair or Deceptive Practice: Exception to Rule When Carrier's Tariff Provides for Confirmation by Such Other Means

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 23d day of May 1973.

By supplemental notice of proposed rulemaking, PSDR-30B/EDR-219,[1] the Board invited comment on two alternative proposals to deal with the problem of oral reservations of airline space: (1) A twin proposal comprised of (a) an amendment to part 399, to establish a policy that the Board considers the practice of air carriers or ticket agents in confirming reserved space by means other than ticket notation as an unfair or deceptive practice, except when the carrier's tariff provides for confirmation by such other means; and (b) a concomitant amendment to the part 250 definition of "confirmed reserved space" so as to include reservations of space in any manner provided therefor by the carrier's tariff; or (2) an amendment of only the part 250 definition of "confirmed reserved space," so as to make available the remedy of denied boarding compensation to all prospective passengers who have been given an oral confirmation of reserved space, regardless of whether the particular carrier's tariff provides for valid oral reservations.

Pursuant to the rulemaking notice, comments were received from eight scheduled trunkline carriers,[3] five local service carriers,[3] Pan American World Airways, Inc. (Pan American), the aviation consumer action project (ACAP), and the Research Triangle Institute (Research). As requested in the notice, information responses were also filed by the seven certificated route carriers[4] whose tariffs then provided for valid oral confirmations of reserved space, and are summarized in the attached appendix.[5] Ozark opposes both alternatives proposed. Aloha, Hawaiian, Northwest, Piedmont, and United take no position on the merits of either alternative proposed. ACAP appears to support the second alternative proposal. All of the other comments, except one,[6] support the first alternative proposed, but TWA, Pan American, and Frontier suggest several modifications to the specific provisions therein.

This proceeding was originally instituted by notice of proposed rulemaking PSDR-30,[7] in which the Board proposed to establish as its policy that it would regard as unfair and deceptive the practice of air carriers and agents in orally

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[2] As shown in exhibits A and B, forms 250 and 251, which are filed as part of the original document, have been revised to reflect the above-described modification.

[1] Mar. 1, 1972, 37 FR 4722, docket 23310.

[3] American Airlines, Inc. (American), Delta Air Lines, Inc. (Delta), Eastern Air Lines, Inc. (Eastern), Northwest Airlines, Inc. (Northwest), Trans World Airlines, Inc. (TWA), United Air Lines, Inc. (United), Western Air Lines, Inc. (Western), Wien Consolidated Airlines, Inc. (Wien).

[3] Aloha Airlines, Inc. (Aloha), Frontier Airlines, Inc. (Frontier), Hawaiian Airlines, Inc. (Hawaiian), Ozark Air Lines, Inc. (Ozark), Piedmont Aviation, Inc. (Piedmont).

[4] American, Western, United, Wien, Aloha, and Hawaiian, the carriers to whom the request for information was specifically addressed; and also by Northwest which had revised its tariff rules so as to recognize oral reservations as binding.

[5] Hawaiian has also submitted data with respect to its denied boarding experience by month since January 1970, including a comparison of Hawaiian's experience for the period when its oral confirmation rule was in effect, and periods since January 1970 when its former reservations rule was in effect.

[6] That of Eastern. While Eastern argues against adoption of the first alternative, it does not appear to endorse the second alternative.

[7] Apr. 23, 1971, 36 FR 8058.

confirming reserved space to passengers on scheduled flights before a ticket is issued. The proposed policy statement reflected the fact that, at the time the rulemaking notice was issued, all domestic carriers had a tariff rule which provided that reserved space could be confirmed only by a notation on the passenger's ticket. Since our rules on denied boarding compensation (pt. 250) also reflect the same universality—i.e., "confirmed reserved space" is defined only in terms of a notation on the ticket—the liquidated damages remedy provided under those rules has not been available to a passenger who relied on an orally confirmed reservation. In the context of that situation, we therefore proposed to regard as unfair and deceptive the practice of carriers and their agents who purported to make orally confirmed reservations, contrary to all tariffs.

Comments in response to the original notice were filed by the Air Transport Association of America (ATA) on behalf of certain member carriers, the American Society of Travel Agents, Inc. (ASTA), seven certificated combination route carriers,[8] the National Industrial Traffic League, Miami Dade Junior College, and four private companies or individuals.[9] As discussed elsewhere, most of these comments opposed the proposed rule on various policy grounds.

Subsequent to, and apparently as a result of, the issuance of PSDR–30, a number of carriers[10] revised their tariff rules so as to obligate themselves to issue a validated ticket on the basis of an oral reservation. By doing so, these carriers partly vitiated the factual predicate for our original proposal, since a carrier cannot be said to engage in an unfair or deceptive practice in confirming space by telephone, when it has in fact adopted a binding tariff rule which provides for this means of making reservations. In light of this intervening change in factual circumstances, the Board issued the aforementioned supplemental notice, PSDR–30B, inviting comment on two alternatives, either of which we tentatively concluded would be preferable to the unqualified policy statement proposed in PSDR–30.[11]

Upon full consideration of the relevant matters contained in the comments filed in docket 23310, the Board has determined, for the reasons set forth hereinafter and in PSDR–30B, to adopt the first alternative proposed, with one modification:

As contemplated in the supplemental rulemaking notice,[12] we have modified the proposed reporting requirements of part 250[13] to provide for a breakdown of denied boarding statistics, so as to indicate separately those denied boarding claims which are based on reservations noted on the passenger's ticket and those based on reservations confirmed by other means. The amendments to part 250 are contained in ER–804, issued contemporaneously herewith.

At the outset, we are met with the contention of Ozark and other parties to the effect that neither alternative proposed in PSDR–30B is at all justified or even desirable. They variously argue that a significant problem does not exist in the area of denied boarding or current reservations practices and, therefore, that the Board is seeking through the amendment a "severe solution" to a problem which does not impose a significant inconvenience on the traveling public.[14] Thus, it is said, inasmuch as an extraordinarily high percentage of passengers' confirmed reservations are honored, the Board's underlying view that oral confirmation of reserved space constitutes a problem requiring regulatory treatment is wholly unfounded.

We find no merit in these contentions. Regardless of the dimensions of the problem, the practice of telling a person that his seat reservation is confirmed, when it is not in fact confirmed under a carrier's tariff rule which provides only for written reservations, is an unfair and deceptive practice for the purpose of section 411 of the act. Apart from the obvious inconvenience and distress to persons who encounter difficulty in obtaining a ticket based on a reservation which they made by telephone, if the carrier fails to honor such reservation the prospective passenger would have no grounds for relief under our denied boarding compensation rules. Although the industry may rightfully claim that the number of passengers denied boarding each year is small in relative terms, as a percentage of total enplanements, in absolute terms the figure is substantial enough to justify our regulatory action to take effective steps to protect the public against this deceptive carrier reservation practice.

Before discussing the particulars of the amendments we have determined to adopt, we will set forth briefly our reasons for choosing the first, rather than the second, alternative proposed in the supplemental rulemaking notice.

As indicated in PSDR–30B, the first alternative gives the carrier some latitude, within the framework of its own tariff rules, to shape a reservation policy suited to its particular needs. Thus, under this approach the carrier would continue to be free to decide whether it chooses to be bound, in its tariff, by reservations made orally. If it decides to be bound by oral reservations, as provided in its tariff, then a reservation so made would entitle a passenger to the remedy of denied boarding compensation under part 250; if it does not so provide in its tariff, then—although the oral reservation would not invoke the part 250 remedy—the practice would be regarded as "unfair or deceptive." On the other hand, the second alternative would offer a virtue that the first does not, namely, it would achieve uniformity in the application of denied boarding compensation to carrier reservation practices, since the remedy would apply to all confirmed reservations, whether oral or written, tariff provisions to the contrary notwithstanding.

Although the approach of the second alternative is supported by ACAP, the other filed comments indicate that the uniformity which is the chief virtue of the second alternative would not actually be achievable without considerable difficulty. Such uniformity could be assured only if the Board could also prescribe a single reasonable standard to be applied by carriers in administering the rule as it applies to the treatment of denied boarding claims based on alleged oral confirmations which are not admitted by the carrier. As the comments point out, there are a number of practical problems involved in establishing such a standard. For example, it is not clear: (1) Whether some objective evidence should be essential to establish the authenticity of an alleged oral reservation and, if so, what type of evidence (e.g., computer record banks) would be appropriate for that purpose; (2) whether such evidence should be considered conclusive or presumptive with respect to the validity of a denied boarding claim; and (3) how long before flight departure time a passenger holding a telephone reservation should be required to apply to the confirming carrier for a ticket. While these problems are not necessarily insoluable, we do not have the requisite information at this time; hence, we cannot now adopted the second alternative as a sound regulation.[15] Accordingly, pending the accumulation of a considerable amount of experience with respect to the disposition of denied

[8] American, Continental, Eastern, Ozark, Pan American, United and Western.

[9] General Mills, Inc.; Talbert, Cox & Associates of West Columbia, S.C.; REA International Corp. of Rahway, N.J.; and Frank C. Brooks of Dallas, Tex.

[10] The carriers listed in footnote 4 plus 8 others.

[11] By modifying the proposed policy to make clear that the Board regards as unfair or deceptive the practice of orally confirming reservations only where the carrier's tariff requires such reservations to be in writing—and proposing the corresponding amendment to pt. 250—we have substantially mooted the argument of those parties who opposed the original proposal on the ground that some carriers now extend denied boarding compensation to persons whose reservations are confirmed orally.

[12] PSDR–30B, footnote 10.

[13] Sec. 250.10 (reports of unaccommodated passengers).

[14] For example, the number of passengers denied boarding on domestic flights decreased sharply from 139,028 in fiscal 1969 to 73,578 in fiscal 1971, a net reduction in denied boardings of approximately 48 percent. Moreover, data published by the Board shows that, in 1971, 99.9463 percent of 137,052,638 domestic airline passengers were accommodated on flights for which they held confirmed reserved space.

[15] We note that the data reflected in the attached appendix is of little use to the Board in evaluating the feasibility of requiring orally confirmed reservations to be binding on carriers.

boarding claims based on oral reservations, we believe that the better regulatory approach, at least initially, is to permit carriers to choose whether or not they wish to adopt tariff rules obliging themselves to become as bound by reservations made orally as by those noted on tickets.

We turn then to the first alternative.

Several of the comments which oppose the proposed policy statement argue that by requiring carriers whose tariffs provide only for written reservations to refrain from confirming reservations orally, the proposed policy will be disruptive of current cost-and-time-saving ticketing practices and may cause substantial confusion to the large number of air passengers who are used to confirming space by telephone.

We do not find these arguments to be persuasive. On the whole, the comments reflect a basic misunderstanding of the proposed policy in relation to existing carrier reservation practices. As explained in the supplemental notice, our purpose in issuing the proposed policy was neither to bar the generally desirable practice of reserving airline space by telephone, nor to inconvenience the traveling public which is accustomed to making oral reservations, but to protect the public against misrepresentations by employees and agents of air carriers. Such misrepresentation necessarily occurs when telephone reservations for scheduled flights made by prospective passengers are confirmed by, or on behalf of, a carrier whose tariff rules expressly provide that reservations so made are only tentative. If the customer is told in clear and unmistakable language, that his reservation is only tentative until such time as a ticket is issued, we have no reason to believe—nor do the comments present any facts to indicate—that the prospective passenger will be confused as to the status of his reservation. Thus, we do not believe that our policy statement will seriously disrupt the ticketing practices of those carriers whose tariffs provide only for written confirmations of reserved space. On the other hand, any slight disruption which might result from the new policy statement should be outweighed by the public interest in increasing the integrity of the telephone reservation procedure. In short, those air travelers who prefer to reserve airline space by telephone may continue to do so, so long as they are made aware that, unless the airline's tariff provides otherwise, such reservation is not legally binding on the airline.

Eastern argues that ticket agents—as well as carriers themselves, insofar as they act as agents for other carriers in interline transactions—routinely confirm by telephone space sold on behalf of numerous carriers and cannot be expected to know whether or not a particular carrier's tariff provides that oral reservations are only tentative. Therefore, Eastern asserts, if the lawfulness of the practices of air carriers is allowed to vary in this regard, depending on the particular provisions of their various tariff rules, then the risk of illegal reservations practices by carriers' agents will inevitably be quite high. While Eastern's argument has some merit, we are not persuaded to withdraw the rule because of a possible lack of information on the part of ticket agents and connecting carriers as to the content of a particular carrier's tariff rule governing reservations. We believe that problem could be adequately met by the carriers' adoption of suitable means of interline communication. For example, publication of all carriers' tariff rules on oral reservations in the "Official Airline Guide" (OAG) could enable ticket agents and other carriers to be apprised of each carrier's rule.

With respect to foreign air travel, no evidence has been offered in support of the comments which conclusorily allege that the proposed policy will cause passengers to prefer the foreign carriers and thus give them a competitive advantage over the U.S. route carriers in international air transportation. It must be emphasized that we are merely requiring carriers and their agents to forego the unfair practice of representing to passengers that orally confirmed reservations are binding on a carrier when in fact the carrier's tariff (and our denied boarding compensation rules) contradict such oral representation. Moreover, we can hardly be sympathetic to the argument that U.S. air carriers should be permitted, for competitive reasons, to continue to engage in this unfair practice.

Various modifications have been suggested for the alternative proposal which we are adopting here. These modifications stem from explicit or implicit recognition of the fact that tariff rules which provide for oral confirmed reservations necessarily present evidentiary problems. Thus, it is suggested that: (1) Denied boarding compensation should be paid to a claimant only when there is some objective, written evidence (e.g., computer tapes or passenger lists) of the existence of the reservation upon which such claim is founded; [34] or (2) the air carrier's computer or other automated record of reservations shall be conclusive evidence as to whether or not the space claimed by the passenger was, in fact, confirmed by the reservations agent of the carrier; [35] or (3) a prospective passenger, holding an oral reservation, must apply to the confirming carrier for a validated ticket before such deadline as had been agreed upon between the carrier and the passenger at the time the oral reservation was confirmed, but no later than 30 minutes before flight time (60 minutes before flight time with respect to foreign air transportation).[36]

In substance, these proposals suggest the types of tariff rules which the Board should permit carriers to establish, in connection with tariffs providing for oral confirmation of reserved space, in order to avoid exposure to spurious claims for denied boarding compensation under part 250, as amended herein. While it would be clearly inappropriate in this rulemaking proceeding to pass on the reasonableness of suggested tariff rules which carriers may choose to file, we do expect carriers whose tariff rules obligate them to issue tickets on the basis of oral reservations to adopt practices governing their disposition of claims based on reservations so made in order to protect themselves against fraudulent claims. Any such practice would of course have to be disclosed in a filed tariff, and any significant tariff conditions on oral reservations would have to be communicated to the prospective passenger at the time his oral reservation is confirmed, if the practice is not to be rendered deceptive.

In this latter connection, carriers are cautioned that tariff rules which are ambiguous will not be accepted for filing. Nor will the Board tolerate tariff rules prescribing conditions which circumscribe the use of oral reservations so restrictively as to nullify, in effect, the validity purportedly given by the tariff to oral reservations.

We also take note of ACAP's suggestion that the Board: (1) Variously amend part 250, to define the term "operational reasons," [37] to provide for a minimum denied boarding compensation of $200, and to extend its coverage to foreign air carriers; and (2) require carriers to submit monthly reports showing the number of passengers denied confirmed space and the reasons for such denials in detail. The Board has not here considered these suggestions of ACAP because they raise matters which are clearly beyond the scope of the instant proceeding.[38]

In consideration of the foregoing, the Civil Aeronautics Board hereby amends part 399, "Statements of General Policy" (14 CFR, pt. 399) effective August 6, 1973, as follows:

1. Amend the table of contents by adding a new § 399.83 as follows:

Sec.
399.82 Passing off * * *
399.83 Unfair or deceptive practice of air carrier or ticket agent in orally confirming to prospective passenger reserved space on scheduled flights.

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[34] Pan American.
[35] Frontier.
[36] Pan American.

[37] Under pt. 250, a passenger is not eligible for denied boarding compensation if the flight for which the passenger held confirmed reserved space could not accommodate him because the carrier was required, for "operational and/or safety reasons," to substitute equipment of lesser capacity.

[38] With respect to ACAP's proposal for reports, we invite ACAP's attention to § 250.10, which requires carriers to file with the Board 2 reports of unaccommodated passengers. These reports show, with respect to specified markets, the total number of revenue passengers boarded as well as the number of unaccommodated passengers in various categories. They also disclose the number of passengers who received denied boarding compensation, who qualified for such compensation but did not accept the compensation offered, or who did not qualify for compensation due to specified reasons, during the period covered by the report. As indicated, we are modifying herein the § 250.10 reports, to require a separate listing of denied boardings based on ticketed confirmations of reserved space and those based on oral confirmations of reserved space.

2. Add new § 399.83 as follows:

§ 399.83 Unfair or deceptive practice of air carrier or ticket agent in orally confirming to prospective passenger reserved space on scheduled flights.

It is the policy of the Board to consider the practice of an air carrier or ticket agent, of stating to a prospective passenger by telephone or other means of communication that a reservation of space on a scheduled flight in air transportation is confirmed before a passenger has received a ticket specifying thereon his confirmed reserved space, to be an unfair or deceptive practice and an unfair method of competition in air transportation or the sale thereof within the meaning of section 411 of the act, unless the tariff of the particular air carrier provides for confirmation of reserved space by the means so used.

(Secs. 102, 204(a), 403, 404, 411, 416(a), Federal Aviation Act of 1958, as amended (72 Stat. 740, 743, 758, 760, 769, and 771; 49 U.S.C. 1302, 1324, 1373, 1374, 1381, and 1386); secs. 3, 4, Administrative Procedure Act (81 Stat. 54, 80 Stat. 383; 5 U.S.C. 552 and 553).)

NOTE.—The reporting requirements herein have been approved by the Office of Management and Budget as required by the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.73-11295 Filed 6-5-73;8:45 am]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Regulation No. 1, further amended]

PART 401—DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION

Disclosure of Information to Treasury Department and Department of Justice for Purpose of Administration of Medicare Program

On February 8, 1973, there was published in the FEDERAL REGISTER (38 FR 3608), a notice of proposed rulemaking with a proposed amendment to paragraph (d) of § 401.3 of regulation No. 1. The proposed amendment to the regulation provides that the Social Security Administration may disclose to the Department of Justice and the Treasury Department, certain information for use in administering the medicare program (title XVIII of the Social Security Act). Interested persons were given the opportunity to submit within 30 days, data, views, or arguments with regard to the proposed amendment.

The executive director of the National Council for Homemaker—Health Aide Services, Inc., has commented that there would be a misuse of social security records if their contents were to be disclosed to the Department of Justice and the Treasury Department. However, there is no reason to suspect that a misuse of such records will occur. The assumption is based on the fact that as far back as 1948 regulation No. 1 was amended to permit disclosure of information to any officer or employee of the Department of Justice, as well as the Treasury Department who were lawfully charged with the administration of titles II, VIII, and IX of the Social Security Act, as amended. Experience has shown that there has been no misuse of social security records where disclosure has occurred pursuant to paragraph (d) of § 401.3 of regulation No. 1. This amendment is merely to update the existing regulation to include title XVIII (medicare) to those already published titles of the act from which information may be disclosed for the expressed purpose of administering those titles. No other comments were received. Accordingly, the amendment as proposed is hereby adopted.

(Secs. 205, 1102, 1106, and 1871, 53 Stat. 1368, as amended, 49 Stat. 647, as amended, 53 Stat. 1398, as amended, 79 Stat. 331; 42 U.S.C. 405, 1302, 1306, 1395hh.)

Effective date.—This amendment shall be effective on June 6, 1973.

Dated May 11, 1973.

ARTHUR E. HESS,
Acting Commissioner of Social Security.

Approved May 31, 1973.

FRANK CARLUCCI,
Acting Secretary of Health, Education, and Welfare.

Regulation No. 1 of the Social Security Administration (20 CFR 401.1 et seq.) is further amended as set forth below.

Section 401.3 is amended by revising paragraph (d) to read as follows:

§ 401.3 Information which may be disclosed and to whom.

Disclosure of any such file, record, report, or other paper, or information, is hereby authorized in the following cases and for the following purposes:

* * * * *

(d) To any officer or employee of the Treasury Department, or of the Department of Justice, of the United States, lawfully charged with the administration of titles II, VIII, IX, or XVIII of the Social Security Act, the Federal Insurance Contributions Act, the Self-Employment Contributions Acts, or the Federal Unemployment Tax Act, or any Federal income tax law, for the purpose of such administration only.

* * * * *

[FR Doc.73-11290 Filed 6-5-73;8:45 am]

[Regulations No. 4, further amended]

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE (1950——)

Evidence; Proof of Death

On February 26, 1973, there was published in the FEDERAL REGISTER (38 FR 5182), a notice of proposed rulemaking with a proposed amendment to subpart H of regulations No. 4. The proposed amendment would eliminate the requirement that a certified copy of the public record of death occurring outside the United States be authenticated in all cases by the U.S. consul or other agent of the State Department.

Interested parties were given 30 days within which to submit data, views, or arguments, with regard to the proposed amendment. No comments were received. Therefore, the proposed amendment is hereby adopted without change and is set forth below.

(Secs. 205 and 1102, 53 Stat. 1368, as amended, 49 Stat. 647, as amended; 67 Stat. 18, 631; 42 U.S.C. 405, and 1302.)

Effective date.—This amendment shall be effective on June 6, 1973.

Dated May 11, 1973.

ARTHUR E. HESS,
Acting Commissioner of Social Security.

Approved May 31, 1973.

FRANK CARLUCCI,
Acting Secretary of Health, Education, and Welfare.

Subpart H of regulations No. 4 (20 CFR 404.1 et seq.) is amended as follows:

Paragraph (c) of § 404.704 is revised to read as follows:

§ 404.704 Evidence as to death.

* * * * *

(c) *Where death occurs outside the United States.* If death occurs outside the United States, there must be furnished a report of the death by a U.S. consul, or other agent of the State Department, bearing the signature and official seal of such consul or agent; or a certified copy of the public record of death issued by a foreign vital statistics or health department or agency; or other evidence of probative value.

[FR Doc.11289 Filed 6-5-73;8:45 am]

[Regulation No. 4, further amended]

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE (1950——)

Subpart E—Deductions; Reductions; Nonpayments; Increases

ALIEN NONPAYMENTS

Section 404.463(a)(7) of regulations No. 4 of the Social Security Administration contains a list of foreign countries which have social insurance or pension systems meeting the requirements of section 202(t)(2) of the Social Security Act. The purpose of the amendment set forth below is to incorporate the names of the countries (Argentina, Belgium, Bulgaria, Colombia, El Salvador, Gabon, Guyana, Liechtenstein, and Peru) whose social insurance or pension systems have, since August 19, 1969, been determined by the Secretary to meet such requirements. Zaire has been substituted for Congo (Kinshasa) in order to reflect the name by which that country is now known. The 30-day notice procedure is being dispensed with because notices were published at the time the findings were made by the Secretary.

(Secs. 202(t), 205, and 1102, 70 Stat. 835, as amended, 53 Stat. 1368, as amended, 49 Stat. 647, as amended; 67 Stat. 18, 631, 42 U.S.C. 402, 405, and 1302.)

Effective date.—This amendment shall be effective on June 6, 1973.

Dated May 11, 1973.

ARTHUR E. HESS,
Acting Commissioner of Social Security.

Approved May 31, 1973.

FRANK CARLUCCI,
Acting Secretary of Health, Education, and Welfare.

Subpart E of regulations No. 4 (20 CFR 404.1 et seq.) is amended as follows:

Subparagraph (7) of § 404.463(a) is revised to read as follows:

§ 404.463 Nonpayment of benefits of aliens outside the United States; "foreign social insurance system," and "treaty obligation" exceptions defined.

(a) *"Foreign social insurance system" exception.*—The following criteria are used to evaluate the social insurance or pension system of a foreign country to determine whether the exception described in § 404.460(b) to the alien nonpayment provisions applies:

* * * * *

(7) *List of countries which meet the social insurance or pension system exception in section 202(t)(2) of the act.*—The following countries have been found to have in effect a social insurance or pension system which meets the requirements of section 202(t)(2) of the act. Unless otherwise specified, each country meets such requirements effective January 1957. The effect of these findings is that beneficiaries who are citizens of such countries and not citizens of the United States may be paid benefits regardless of the duration of their absence from the United States unless for months beginning after June 1968 they are residing in a country to which payments to individuals are being withheld by the Treasury Department pursuant to the first section of the act of October 9, 1940 (31 U.S.C. 123). Further additions to or deletions from the list of countries will be published in the FEDERAL REGISTER.

Argentina (effective July 1968).
Austria (except from January 1958 through June 1961).
Barbados (effective July 1968).
Belgium (effective July 1968).
Bolivia.
Brazil.
Bulgaria (effective February 1971).
Canada (effective January 1966).
Chile.
Colombia (effective January 1967).
Costa Rica (effective May 1962).
Cyprus (effective October 1964).
Czechoslovakia (effective July 1968).
Denmark (effective April 1964).
Ecuador.
El Salvador (effective January 1969).
Finland (effective May 1968).
France (effective June 1968).
Gabon (effective June 1964).
Guyana (effective September 1969).
Ivory Coast.
Jamaica (effective July 1968).
Liechtenstein (effective July 1968).
Luxembourg.
Malta (effective September 1964).
Mexico (effective March 1968).
Monaco.
Netherlands (effective July 1968).
Norway (effective June 1968).
Panama.
Peru (effective February 1969).
Philippines (effective June 1960).
Poland (effective March 1957).
Portugal (effective May 1968).
San Marino (effective January 1965).
Spain (effective May 1966).
Sweden (effective July 1966).
Switzerland (effective July 1968).
Turkey.
United Kingdom.
Upper Volta (effective October 1960).
Yugoslavia.
Zaire (effective July 1961) (formerly Congo (Kinshasa)).

* * * * *

[FR Doc.73-11288 Filed 6-5-73;8:45 am]

[Regulation No. 4, further amended]

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE (1950——)

Subpart D—Old-Age, Disability, Dependent's, and Survivors' Insurance Benefits; Period of Disability

LUMP-SUM DEATH PAYMENTS

On February 8, 1973, there was published in the FEDERAL REGISTER (38 FR 3609) a notice of proposed rulemaking with proposed amendments to Subpart D of Regulations No. 4. The proposed amendments provide that where the body of the deceased is not available for burial and there is no widow or widower to receive the payment it may be paid to the person who paid for a memorial service, a memorial marker, or similar expenses in connection with the death. This change is in accord with an amendment to the Social Security Act (Public Law 92-223) and applies in the case of deaths which occur after 1970.

Interested persons were given the opportunity to submit, within 30 days, data, views, or arguments with regard to the proposed changes.

One individual expressed concern that an "unearned bonus" should not be paid by the taxpayers to those persons who incur expenses for memorial services. This lump-sum death payment, however, is not paid from general revenues; rather it is paid from the social security trust fund to which the deceased individual contributed while he was living. Moreover, a person who becomes entitled to a lump-sum payment under the proposed regulation will only be reimbursed for his out-of-pocket expenditures for a service, a marker, or other similar memorial. This rule will apply only when the deceased is not survived by a widow or widower who was living in the same household with the deceased at the time of his death. This proposed regulation reflects the provisions of an amendment to the Social Security Act made by Public Law 92-223.

After due consideration of the comment received, the proposed amendments are hereby adopted without change and are set forth below.

(Secs. 202, 205, 1102; 49 Stat. 623, as amended, 53 Stat. 1368, as amended, 49 Stat. 647, as amended; 42 U.S.C. 402, 405, 1302.)

Effective date.—The amendments shall be effective on June 6, 1973.

Dated May 11, 1973.

ARTHUR E. HESS,
Acting Commissioner of Social Security.

Approved May 31, 1973.

FRANK CARLUCCI,
Acting Secretary of Health, Education, and Welfare.

1. Section 404.360 is amended by revising paragraph (a), by adding a new subparagraph (6) to paragraph (c), and by adding a new subparagraph (7) to paragraph (d), to read as follows:

§ 404.360 Lump-sum death payments; persons equitably entitled.

(a)(1) *Burial expenses incurred by or through a funeral home.* If any part of the lump-sum death payment remains unpaid after payment pursuant to § 404.358, such amount shall be paid to any person or persons equitably entitled thereto, to the extent and in the proportions that such person or persons paid the burial expenses of the insured individual incurred by, or through, a funeral home (or funeral homes) provided that:

(i) All of the burial expenses of the insured individual incurred by, or through, a funeral home (or funeral homes) have been paid, including payments, if any, made under § 404.358; and

(ii) All of the conditions in § 404.355 are met.

(2) *Expenses incurred in connection with a memorial service.* In the case of a death which occurred after December 31, 1970, if the body of the insured individual is not available for burial but expenses were incurred with respect to such individual in connection with a memorial service, a memorial marker, a site for the marker, or any other item of a kind for which expenses are customarily incurred in connection with a death and such expenses have been paid, the lump sum may be paid to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid such expenses.

* * * * *

(c) *"Person or persons equitably entitled."* The term "person or persons equitably entitled" includes, but is not limited to, the following:

* * * * *

(6) An organization, State, or other entity of the kind listed and under the conditions set forth in paragraph (c)(1)–(5) of this section paying expenses incurred in connection with a memorial service, a memorial marker, or any other item of a kind for which expenses are customarily incurred in connection with a death.

(d) *Person or persons not "equitably entitled."* The term "person or persons equitably entitled" does not include, among others, any of the following:

* * * * *

(7) A person, employer, or other entity described in, and subject to the conditions specified in paragraph (d)(1)–(6) of this section paying expenses incurred in connection with a memorial service, a memorial marker, or any other item of a kind for which expenses are customarily incurred in connection with a death.

* * * * *

2. Section 404.362 is revised to read as follows:

§ 404.362 Lump-sum death payments; individual paying burial or other expenses dies before collecting the lump sum.

In any case in which a person who is equitably entitled to a lump-sum death payment by virtue of having paid the burial expenses of the deceased insured individual or other expenses customarily incurred in connection with a death (see § 404.360 (a) and (b)) dies before collecting the lump sum, payment may be made to the estate of the equitably entitled person in the manner prescribed in § 404.361 except that, if the spouse of such deceased equitably entitled person files application for payment on behalf of such person's estate, consent of the other relatives to payment being made to such spouse as would ordinarily be required by § 404.361(b) need not be obtained from such other relatives.

3. Section 404.363 is amended by revising the part of paragraph (c) which precedes subparagraphs (1) through (5) and by revising paragraph (d). As revised, paragraphs (c) and (d) will read as follows:

§ 404.363 Lump-sum death payments; amount of payment.

* * * * *

(c) *Person or persons paying burial expenses incurred by or through a funeral home.* When payment of a lump sum is to be made to a person, or persons, who paid burial expenses incurred by, or through, a funeral home, or funeral homes (see § 404.360(a)(1)), the amount payable to each such person is an amount equal to whichever of the following is the least:

(1) The amount of such burial expenses paid by such person;

(2) Three times the primary insurance amount of the deceased individual;

(3) $255;

(4) The amount of the lump sum remaining, if any, after payment has been made to a funeral home, or funeral homes, in accordance with paragraph (b) of this section; or

(5) An amount which bears the same proportion to the lump sum payable (as determined under the provisions of the preceding subparagraphs of this paragraph) as the amount of the burial expenses paid by such person bears to the total of the burial expenses incurred by, or through, a funeral home, or funeral homes.

(d) *Person or persons paying memorial service expenses or burial expenses (other than burial expenses incurred by or through a funeral home).* When payment of the lump sum is to be made to a person who paid expenses in connection with a memorial service (where the body of the deceased is not available for burial—see § 404.360(a)(2)) or to a person who paid burial expenses other than those incurred by or through a funeral home or funeral homes (see § 404.360 (b)), or where payment is to be made to more than one person who paid such memorial service expenses or burial expenses which are on the same level of priority (see §§ 404.360(a)(2) and 404.360(b)(1)–(3)), the amount payable to each such person shall be an amount equal to whichever of the following is the least:

(1) The amount of such memorial service or burial expenses paid by such person;

(2) Three times the primary insurance amount of the deceased individual;

(3) $255;

(4) The amount of the lump sum remaining unpaid (if any), after payment has been made to:

(i) A funeral home, or funeral homes, in accordance with paragraph (b) of this section; and

(ii) A person, or persons, who paid burial expenses incurred by, or through, a funeral home, or funeral homes, in accordance with paragraph (c) of this section; and

(iii) A person, or persons, who paid expenses in connection with a memorial service (where the body of the deceased is not available for burial) pursuant to § 404.360(a)(2); and

(iv) A person, or persons, who paid burial expenses, other than those incurred by, or through a funeral home, or funeral homes, which are on a higher level of priority (see § 404.360(b)(1)–(3)) than the expenses which constitute the basis for this payment of the lump sum; or

(5) An amount which bears the same proportion to the total lump sum payable (as determined under paragraph (d) (1) through (4) of this section) as the amount of the memorial service expenses or the burial service expenses (other than those incurred by, or through, a funeral home, or funeral homes) which such person paid (and which are the basis for this payment of the lump sum to such person) bears to the total of the burial expenses which are on the same level of priority as determined in accordance with §§ 404.360 (a)(2) and 404.360(b)(1)–(3).

* * * * *

[FR Doc.73-11291 Filed 6-5-73;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER C—DRUGS

PART 135b—NEW ANIMAL DRUGS FOR IMPLEMENTATION OR INJECTION

Oxytetracycline Hydrochloride With Lidocaine Injection

The Commissioner of Food and Drugs has evaluated a new animal drug application (49-948V) filed by Rachelle Laboratories, Inc., 700 Henry Ford Avenue, Long Beach, Calif. 90801, proposing the safe and effective use of oxytetracycline hydrochloride with lidocaine in the treatment of diseases of dogs caused by pathogens sensitive to oxytetracycline hydrochoride. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), part 135b is amended by adding a new section as follows:

§ 135b.93 Oxytetracycline hydrochloride with lidocaine injection.

(a) *Specifications.*—The drug contains 50 mgs of oxytetracycline hydrochloride and 2 percent lidocaine in each milliliter of sterile aqueous solution.

(b) *Sponsor.*—See code No. 071 in § 135.501(c) of this chapter.

(c) *Conditions of use.*—(1) The drug is indicated for use in the treatment of diseases of dogs caused by pathogens sensitive to oxytetracycline hydrochloride including treatment for the following conditions in dogs caused by susceptible microorganisms: Bacterial infections of the urinary tract caused by *Hemolytic staphylococcus, Streptococcus spp.*, Bacterial pulmonary infections caused by *Brucella bronchiseptica, Streptococcus pyogenes, Staphylococcus aureus*, secondary bacterial infections caused by *Micrococcus pyogenes var. albus, Brucella bronchiseptica, Streptococcus spp.*

(2) The drug is administered intramuscularly at a recommended daily dosage to dogs of 5 mg per pound of body weight administered in divided doses at 6 to 12 h intervals. Therapy should be continued for at least 24 h after all symptoms have subsided.

(3) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date.—This order shall be effective on June 6, 1973.

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

Dated May 30, 1973.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.73-11211 Filed 6-5-73;8:45 am]

Title 32—National Defense

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

SUBCHAPTER B—SALES AND SERVICE

PART 815—PERSONS AUTHORIZED MEDICAL CARE

Miscellaneous Amendments

This change: (1) Makes editorial changes for clarity; (2) Adds a category of employee eligible for medical care under subpart E; (3) Deletes a restriction on conducting certain examinations under this part; and (4) Revises administrative requirements for interagency reimbursement for certain medical care, providing that cases of Army and Navy employees will be handled the same as Air Force cases.

1. The heading for subpart B is revised to read as follows:

Subpart B—Retired Members of the Uniformed Services, Veterans' Administration (VA) Beneficiaries, and U.S. Soldiers' and Airmen's Home Members

§ 815.12 [Amended]

2. The heading of § 815.12 is revised to read as follows: § 815.12 *Members of the U.S. Soldiers' and Airmen's Home.*

3. Section 815.40 is amended by adding a new paragraph (d) to read as follows:

§ 815.40 Persons eligible for care.

* * * * *

(d) Civilian student employees in training at an Air Force medical facility.

§ 815.75 [Amended]

4. Section 815.75 is amended by deleting the last sentence of paragraph (i).

5. Section 815.85 is amended by revising: The text heading of paragraph (a); and the entire text of paragraph (b) to read as follows:

§ 815.85 Claimants whose claims are administered by Federal departments and claimants who are proposed beneficiaries of private relief bills.

(a) *Air Force, Army, and Navy.* * * *

(b) *Other Federal departments.*—So the nature and extent of the injuries or disabilities claimed may be determined, civilian claimants may be furnished medical examinations upon written request from the Federal department responsible for administering the claim. The full outpatient rate will be charged for the medical examination. DD form 7A will be forwarded to HQ USAF/SGHCA for reimbursement action. When hospitalization is necessary to the proper conduct of these examinations, DD form 7 will be forwarded to HQ USAF/SGHCA for reimbursement action.

* * * * *

(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.73-11213 Filed 6-5-73;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

Sodium and Potassium Arsenite

In response to a petition (PP 0E0908) submitted by the U.S. Department of Agriculture, a notice was published by the Environmental Protection Agency in the FEDERAL REGISTER of January 29, 1973 (38 FR 2708), proposing establishment of tolerances for residues of the insecticides sodium and potassium arsenite (expressed at As_2O_3), in the raw agricultural commodities kidney and liver of cattle and horses at 2.7 parts per million and the meat, fat, and meat byproducts (except kidney and liver) of cattle and horses at 0.7 part per million. The residues may result from dermal application of the insecticides to animals in a tick control program under the supervision of the U.S. Department of Agriculture.

No requests for referral to an advisory committee were received. One comment was received expressing concern regarding the toxicity of arsenic at the proposed levels. Based on consideration given the expressed concern, the use restrictions, and the toxicity data available in the literature and in the submitted petition, it is concluded that the proposed tolerances for residues of sodium and potassium arsenite are safe and will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), 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), part 180 is amended by adding the following two new sections to subpart C:

§ 180.334 Potassium arsenite; tolerances for residues.

(a) Tolerances for residues of the insecticide potassium arsentite (expressed as As_2O_3) resulting from dermal application of the insecticide to animals under the supervision of the U.S. Department of Agriculture are established in raw agricultural commodities as follows:

2.7 parts per million in kidney and liver of cattle and horses.

0.7 part per million in meat, fat, and meat byproducts (except kidney and liver) of cattle and horses.

(b) The U.S. Department of Agriculture will issue a certificate to the owner of the animals showing the composition of the pesticide formulation and dates of treatment, and also specifying a minimum preslaughter interval of 14 days.

§ 180.335 Sodium arsenite; tolerances for residues.

(a) Tolerances for residues of the insecticide sodium arsenite (expressed as As_2O_3) resulting from dermal application to animals under the supervision of the U.S. Department of Agriculture are established in raw agricultural commodities as follows:

2.7 parts per million in kidney and liver of cattle and horses.

0.7 part per million in the meat, fat, and meat byproducts (except kidney and liver) of cattle and horses.

(b) The U.S. Department of Agriculture will issue a certificate to the owner of the animals showing the composition of the pesticide formulation and dates of treatment, and also specifying a minimum preslaughter interval of 14 days.

Any person who will be adversely affected by the foregoing order may at any time on or before June 5, 1973, file with the Hearing Clerk, Environmental Protection Agency, room 3902A, Fourth and M Streets, 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 June 6, 1973.

(Sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e).)

Dated May 30, 1973.

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

[FR Doc.73-11317 Filed 6-5-73;8:45 am]

Title 43—Public Lands: Interior

SUBTITLE A—OFFICE OF THE SECRETARY OF THE INTERIOR

PART 18—RECREATION FEES

Golden Eagle Program

The Department of the Interior announces the following amendments to the recreation fees regulations published in the FEDERAL REGISTER on February 6, 1973 (38 FR 3385), as corrected on February 16, 1973 (38 FR 4978):

1. Paragraph (a) of § 18.1 is deleted and the following paragraph (a) is inserted; and in paragraph (b) of § 18.1 the word "and" is substituted for the words "set forth in this part or" and the words "§ 18.9" are substituted for the words "this part".

§ 18.1 Application.

* * * * *

(a) Except where admission is secured by the presentation of a valid Golden Eagle Passport or a valid Golden Age Passport, any entrance fee charged by the National Park Service for admission to any designated entrance fee area

shall be selected from the fees and according to the criteria set forth in § 18.7.

* * * * *

§ 18.2 [Amended]

2. In § 18.2 the quotation marks around the words "designated entrance fee area" are deleted.

§ 18.4 [Amended]

3. In subparagraph (2)(i) of paragraph (a) of § 18.4 the words "Golden Eagle Insignia (hereinafter defined in § 18.16) with the words 'the Golden Eagle' and the" are deleted.

4. In § 18.7 the following new paragraph (a) is added and the existing paragraphs (a), (b), (c) and (d) are redesignated as (b), (c), (d) and (e) respectively; in the redesignated paragraph (c) of § 18.7 the words "at the discretion of the heads of the bureaus" are deleted; in the redesignated paragraph (d) of § 18.7 the words "at the discretion of the heads of the bureaus" are deleted; in the redesignated paragraph (e) of § 18.7 th letters "(b)" and "(c)" are changed to the letters "(c)" and "(d)" respectively.

§ 18.7 Validation and display of entrance permits.

(a) Entrance fees for single-visit permits shall be selected by the Director, National Park Service, from within the range of fees listed below provided that such fees are established in accordance with the following criteria:

(1) The direct and indirect cost to the Government;

(2) The benefit to the recipient;

(3) The public policy or interest served;

(4) The comparable recreation fees charged by other Federal and non-Federal public agencies within the service area of the management unit at which the fee is charged;

(5) The economic and administrative feasibility of fee collection; and

(6) Other pertinent factors.

* * * * *

§ 18.9 [Amended]

9. In paragraph (c) of § 18.9 the words "rentals of nonmotorized boats" are substituted for the words "boats, nonmotorized" and the words "rentals of motorized boats" are substituted for the words "boats, motorized".

§ 18.14 [Amended]

10. In paragraph (d) of § 18.14 the words "Federal recreation" are substituted for the words "entrance" on the first and ninth lines of the paragraph.

§ 18.16 [Amended]

11. In subparagraphs (2), (3) and (4) of paragraph (a) of § 18.16 the word "section" is substituted for the word "part".

As these amendments are adopted for the purposes of clarification and consistency and as they do not further restrict any right granted or recognized under the act of July 11, 1972, 86 Stat. 459, it has been determined that public participation in this rulemaking is unnecessary. Accordingly, these amendments are effective on June 6, 1973.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

MAY 31, 1973.

[FR Doc.73-11266 Filed 6-5-73;8:45 am]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

SUBCHAPTER B—REGULATIONS AFFECTING MARITIME CARRIERS AND RELATED ACTIVITIES

[General Order 30; Docket No. 72-60]

PART 505—COLLECTION AND COMPROMISE OF CIVIL PENALTIES UNDER THE SHIPPING ACT, 1916, AND THE INTERCOASTAL SHIPPING ACT, 1933

Congress recently enacted Public Law 92-416 to assist the Federal Maritime Commission in carrying out its regulatory functions under the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933. Public Law 92-416 amends those statutes by: (a) Converting the penalties imposed for violations of section 16 of the Shipping Act, 1916 (except for first and third paragraphs) from criminal to civil; (b) changing the general penalty provisions of section 32 of the Shipping Act, 1916, by making all violations of sections of the act, which are subject to its jurisdiction and for which no specific penalty is provided, subject to a civil penalty; (c) authorizing the Commission to compromise all civil penalties provided for violations of those sections of the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933, which are subject to its jurisdiction; and (d) providing civil penalties for violations of any Commission order, rule, or regulation, and authorizing the Commission to compromise said penalties. The intent of Public Law 92-416 is to "encourage compromised settlements for violation of the Shipping Statutes, and to help to avoid needless litigation in our overcrowded Federal courts."[1]

By notice of proposed rulemaking published in the FEDERAL REGISTER on December 5, 1972, the Commission served notice that it intended to promulgate certain rules and regulations to implement the provisions and to accomplish the purpose of Public Law 92-416. In respone to the notice of proposed rulemaking, comments were submitted by, or on behalf of, interested parties. The Commission has carefully considered the position of all the commentators, and the final rules promulgated herein have been drafted with these parties' comments and arguments in mind. A section-by-section discussion of the rules and the major comments addressed thereto follows. Comments and arguments not discussed or otherwise reflected herein have been considered and found not justified or material.

Section 505.1, Purpose and scope, sets forth the general applicability of the Commission's rules. Although no specific comments were addressed to this section, we are modifying the scope of the rules to exclude procedural rules and regulations in part 502 of this chapter. This amendment is consistent with one to be made in the definition of "violation" contained in § 505.2(c).

Section 505.2, Definitions, as the title indicates, sets forth the meanings given a number of pertinent terms used throughout the rules. As defined in paragraph (c) of § 505.2, a "violation," for which a penalty can be invoked, includes, inter alia, the violation of "* * * any order, rule or regulation issued or made by the Commission * * *." Some commentators object to the proposed definition as being overbroad in that it could encompass the Commission's procedural rules and regulations. The legislative history of Public Law 92-416 is cited as indicating that such was not the intent of the statute.

While it was never our intention in establishing regulations relating to the collection and compromise of civil penalties to include within their coverage violations of rules of a purely procedural nature, such as those embodied in the Commission's rules of practice and procedure, we can see where our definition of "violation" could be read as indicating otherwise. Accordingly, in order to conform the definition of "violation" in paragraph (c) of § 505.2 to the legislative intent of Public Law 92-416,[2] and to make clear the Commission's own intentions in the matter, we are redefining that paragraph to exclude "procedural rules and regulations contained in part 502 of this chapter" (rules of practice and procedure).

A number of commentators object to the word "offender" as used in paragraph (d) of § 505.2, as proposed, to describe a "person charged with a violation." These parties generally find the word "offender" to be improper and inconsistent with the intent of these rules. In this connection, it is argued that the use of the term "offender" implies a presumption of guilt which undermines the statutory intent to effect compromise and that, accordingly, a person should not be branded an "offender" prior to being given an opportunity to submit material on his own behalf. Consistent with the foregoing, one commentator recommends revising the term to refer only to persons who have admitted or have been adjudged to have committed a violation, and not to persons merely charged with a violation.

The suggestion that the use of the term "offender" is inconsistent with the expected tone of a compromise procedure and is otherwise offensive under the circumstances is well taken. Thus, we are revising the definition contained in paragraph (d) of § 505.2 by simply substitut-

[1] S. Rept. 92-1014, 92d Cong., 2d sess., 4 (1972).

[2] 9 U.S. Congressional News 72-21, p. 4037, at p. 4039.

ing the word "respondent" for "offender" in the proposed rule. This change is consistent with the use of the term "respondent" in the settlement agreement referred to in § 505.5, and generally conforms to phraseology used in other regulatory agency compromise rules.[3] This will of course necessitate the substitution of the word "respondent" for the word "offender" wherever else it appears in the rulemaking.

Section 505.3, Notice procedure, relating to the initiation of the compromise procedure, provides for the issuance of a maximum of three letters of notice of violation and demand informing the party charged of the statutory and factual basis of the penalty and the amount thereof. As proposed by § 505.3, the notice procedure set forth therein would by its terms be initiated when "* * * it is adjudged or otherwise determined that a violation has occurred and it is decided to invoke a statutory penalty * * *."

In terms of number and variety of comments, § 505.3 of the proposed rule has elicited the greatest response. Eight of the 10 parties have commented on this section in varying degrees. Generally, these comments are addressed to that language of the first sentence cited above. Thus, some commentators maintain that the Commission, by use of the term "or otherwise determined" is undertaking, without authorization, a unilateral determination of the violation. These parties maintain that while the Commission, under Public Law 92–416, is authorized to compromise civil penalties for specified violations of the Shipping Act, it may do so only after the Commission determines, in accordance with the Administrative Procedure Act and its own rules of practice and procedure, that a violation has in fact occurred. Their objection appears to be not that there could be an invocation of the compromise procedure prior to a formal finding of a violation, but rather that the proposed rule allows for a determination of a violation without adjudication.

Objection is also taken to the use of the phrase "and it is decided to invoke a statutory penalty," which some parties view as an attempt by the Commission to coerce alleged violators. The Commission, say the commentators, does not have the authority to invoke a statutory penalty since to do so would, as at least one party believes, constitute assessing the power that the Senate saw fit not to grant the Commission under Public Law 92–416.

A great deal of misunderstanding has evolved from this section of the proposed rulemaking. The purpose of § 505.3 is merely to prescribe under what circumstances and in what manner the Commission will invoke the compromise procedure. It was never intended to authorize the Commission to unilaterally determine statutory violations and then assess penalties for such violations. A respondent cannot and will not be deprived of his right to an adjudication on the merits. If the parties suggest that the compromise procedure could never be invoked prior to formal litigation, we submit that it would be unrealistic to condition our compromise powers on a prior formal finding of a violation. Indeed, this section recognizes that there will be instances where the compromise procedures will be invoked prior to, or in lieu of, any formal litigation.

While a reading of the legislative history of Public Law 92–416 and the proposed rulemaking in its entirety would act to dispel the objections raised by the parties to § 505.3, we feel that section could be revised to more properly express the intent of the compromise procedure. Accordingly, the Commission is amending the first sentence of § 505.3 to read as set forth below.

Section 505.4, Request for compromise, provides for the submission of rebuttal material or information to the Commission's General Counsel in answer to the notification letter(s) referred to above. In addition, this section, as proposed, advises that:

> * * * Material or information so presented will be considered in making the final determination as to whether to compromise the penalty and amount for which it will be compromised or whether it is to be collected or terminated in full.

Of the six parties objecting to the wording of this section, five of the parties challenge what they believe is an implication that the compromise procedure will stop with the Commission. For example, one commentator submits that it is not up to the Commission to make a final determination whether a penalty is to be collected or terminated in full, as § 505.4(a) suggests. Likewise, it is suggested by another party that there is nothing in the statute which would support the proposition that the authority given to the Commission to compromise a penalty is exclusive. In this connection, it is argued by yet another party that the language of § 505.4 should be modified to make it clear that the Department of Justice is not subject to the Commission's instructions that penalties be collected or terminated in full, but only obliged to consider the Commission's recommendations and that presumably, if a matter were referred to the Department of Justice for enforcement, that agency would retain the right to settle any such litigation by compromise.

Section 505.4 was intended only to prescribe what actions that the Commission will take regarding information furnished during the compromise procedure and was not to usurp some subsequent action by another agency. Therefore, in order to make this point absolutely clear and to thereby hopefully allay the fears expressed by some commentators as to the extent of our compromise authority, we are revising the challenged portion of § 505.4 to read as set forth below:

Section 505.5, Compromise procedure, sets forth the procedure to be followed in settling a penalty claim, and further provides for the execution of a settlement agreement upon successful compromise of such claim. Paragraph (a) of this section, as proposed, states in part that:

> When no penalty is invoked or the penalty claim is terminated, no further action by the offender will be necessary * * *.

Two parties believe that the foregoing should be revised to provide that where no further action by the offender (now respondent) is necessary, he should be so notified. This point is well taken and will be accommodated by adding the words "and he will be notified accordingly" to the first sentence of paragraph (a) quoted above.

Paragraph (b) of § 505.5, in prescribing the use of a settlement agreement, presently provides, inter alia, that:

> * * * This agreement, after reciting the nature of the violation, will include a statement evidencing the offender's agreement to the settlement of the Commission's penalty claim for the amount set forth in the agreement and will also embody an approval and acceptance provision, which is to be signed by the General Counsel of the Commission * * *.

Only one party commented on paragraph (b) of § 505.5, and its objection was minor. Referring to the use of the word "violation" in the sentence referred to above, this commentator asserts that it is fundamental to the concept of compromise that the respondent, by agreeing to the compromise, does not admit that any violation has occurred. Accordingly, it is suggested that the word "claim" be substituted for "violation." This, it is pointed out, would not only be consistent with the concept of compromise, but would also be in conformance with the language of the settlement agreement which does not require the admission of guilt by an alleged violator. While admittedly this is a minor revision and perhaps unnecessary in view of a similar provision in the settlement agreement annexed as appendix A to our final rules, the Commission, in light of the other proposed changes, will make the suggested revision.

Paragraph (c) of § 505.5, as proposed, provides that:

> Whenever any offender is a party to a proceeding before the Commission, he may, during any stage of such proceeding or any appeal or appeals therefrom, by a letter to the Commission, request an opportunity to discuss the settlement of any penalty claim which may arise out of such proceeding. If the request is granted, the Commission shall promptly thereafter refer the matter to the General Counsel for disposition. Initiation of this procedure shall not, unless otherwise directed by the Commission, act as a stay of the proceedings.

One commentator expresses its opinion that this subsection is unnecessary as long as § 505.3, discussed supra, provides for settlement negotiations during, as well as after, a formal proceeding. On the other hand, another party states that the Commission should effect appropriate revisions in this paragraph to make settlement discussions available as a matter of right and not subject to the discretion of the Commission, as is presently indicated by the language "if the request is granted" in the second sentence.

[3] 14 CFR 302.801 (1972).

Lastly, it is suggested by one commentator that this paragraph should be amended to make it clear that an unsuccessful effort at compromise during the pendency of a formal proceeding should not preclude the reinitiation of the compromise procedure upon completion of the formal proceeding.

This paragraph was intended to provide an opportunity to request the compromise procedure prior to completion of a formal proceeding. It recognizes that penalty-compromise discussions may go on before, during, and after a formal adjudication. Should the respondent avail himself of this opportunity, and should the Commission grant such a request, then disposition will be made in accordance with other sections of this part. Thus, paragraph (c) is not intended to supplant § 505.3, but rather is intended to serve an entirely different purpose.

As for the statement that the settlement discussions should be a matter of right, there is nothing in legislation or its history to support such a statement. Public Law 92–416 specifically provides in the amendment to section 2 of the Intercoastal Shipping Act, 1933, that any civil penalty provided herein may be compromised by the Federal Maritime Commission. Thus, the compromise procedure can only be read as purely discretionary.

With respect to the suggestion that paragraph (c) should make it clear that an unsuccessful effort to compromise during the pendency of a formal proceeding should not foreclose future initiation of compromise procedure, there appears no apparent need to do so since that is clearly understood in the rule. Thus, should the Commission later decide to initiate the compromise procedure, it may do so pursuant to § 505.3, discussed supra.

Two commentators have suggested the addition of a paragraph (d) to § 505.5, which would specifically provide that information disclosed during the compromise procedure would not be officially used to a respondent's detriment. Such a provision, say these commentators, would be conducive to full and frank negotiations, and would be consistent with the settled law that an offer of compromise is inadmissible.

The Commission has no objections to making inadmissible in any subsequent proceedings any offer of compromise made by a respondent during negotiations. Indeed, to the extent the commentator's suggestions relate to the inclusion of a specific provision making inadmissible an offer of compromise or the amount thereof, such addition would tend to benefit the tone of the compromise procedure and would have no detrimental effects on the procedure itself. Consequently, the Commission is adopting an additional paragraph to § 505.5 as set forth below.

We must reject, however, the proposal that information made known by respondents during the course of negotiations, be excluded from any subsequent proceeding since making such information inadmissible could serve to effectively frustrate the Commission's regulatory powers.

Section 505.6, Referral of violations to Department of Justice, as proposed, provides as follows:

(a) The Commission will refer violations to the Department of Justice with the recommendation that action be taken to collect the full statutory penalty when:

(1) The offender, within the prescribed time, does not explain the violation, petition for compromise, or otherwise respond to the letters or inquiries.

(2) The offender, having responded to such letters or inquiries, fails or refuses to pay the statutory or compromise penalty, as determined by the Commission, within the time provided.

(b) No action looking to the compromise of a penalty shall be taken on any petition, irrespective of the amount involved, if the case has been referred to the Department of Justice for collection.

This section has elicited various comments and objections from six parties. Specifically, two commentators contend that this paragraph ignores the situation where the compromise procedures have broken down over a nonadjudicated alleged violation. These parties believe that in such cases referral to the Department of Justice would force the respondent to either compromise an alleged violation at the outset of the proceedings or to carry the proceedings on to a final conclusion with no further chance of a compromise. Moreover, say the commentators, the Commission, by referring these cases to the Department of Justice, would be neglecting their responsibility under the doctrine of primary jurisdiction.

As regards paragraph (b) of § 505.6, one party objects to what it characterizes as the Commission's willingness to limit its own power of compromise. Thus, it is submitted that the Commission should retain full power to compromise a penalty, both preceding a final decision on the merits and following such a decision, and until the case has been referred to the Department of Justice.

Other parties, however, feel that the door to compromise procedure should not be slammed under any circumstances. For instance, one party contends that there is neither law nor logic behind the Commission's decision to foreclose the compromise procedure after referral to the Department of Justice; that the Department of Justice will entertain compromise proposals, irrespective of the Commission's rules, and that for the Commission to shut off consideration of settlements is self-defeating of the overall, greater goal behind the legislation and the proposed rules. This commentator is of the opinion that the proposed door slamming is little more than a thinly disguised settle-or-else threat.

A review of the above comments reveals somewhat contrary objections to § 505.6. For instance, there are some commentators who object to the Commission referring an action to the Department of Justice prior to a formal adjudication, while others feel that the language of this section is intended to foreclose any subsequent compromise after referral to the Department of Justice. With respect to the latter, it should be noted that we stated in our discussion of § 505.4 that the proposed rulemaking is not intended to usurp subsequent action by another agency. Thus, a referral of an action to the Department of Justice for collection does not, contrary to the suggestion advanced by some commentators, foreclose subsequent compromise or settlement negotiations with that Department.

As noted above, some commentators believe the Commission should in no instance refer a case to the Department of Justice without a final decision on the merits. On this point, we conclude that there have been, and will continue to be, instances where the Commission will refer cases to the Department of Justice without a formal adjudication by this agency. However, to make it clear that this section will not foreclose subsequent compromise proceedings in this agency should the case be returned by the Department of Justice, the Commission is adopting a minor revision to paragraph (b). This revision consists of adding to this paragraph the following sentence:

* * * However, should the claim be returned to the Commission, the compromise procedures set forth in this part may be reinstated.

The parties have advanced one other objection to § 505.6, and that is the use of the words "full statutory penalty" in paragraph (a). The commentators note that there might be situations where a full statutory penalty is inappropriate, and the present language would make a recommendation other than full statutory penalty impossible. We find merit with this proposition, and accordingly, the Commission is revising the first sentence of paragraph (a) by substituting the word "appropriate" for the term "full statutory penalty". It is to be understood, however, that there nevertheless may exist situations where a full statutory penalty will be the appropriate penalty.

Finally, § 505.7, method of payment of penalty, provides, as indicated by its title, the various means of paying a penalty, be it by cashier's check in the full amount or regular installments by regular check, or by a combination of the two. Since no comments were directed to this section, and since we do not believe any changes are necessary, this section will be promulgated as proposed.

Therefore, pursuant to the provisions of Public Law 92–416 (86 Stat. 653), section 4 of the Administrative Procedure Act (5 U.S.C. 553, and section 43 of the Shipping Act, 1916 (46 U.S.C. 841a), title 46 CFR is hereby amended by the addition of a new part 505, as follows:

Sec.
505.1 Purpose and scope.
505.2 Definitions.
505.3 Notice procedure.
505.4 Request for compromise.
505.5 Compromise procedure.

Sec.
505.6 Referral of violations to Department of Justice.
505.7 Method of payment of penalty.

AUTHORITY.—Sec. 3, 86 Stat. 653, and sec. 43, 46 U.S.C. 841a.

§ 505.1 Purpose and scope.

The purpose of this part is to implement the statutory provisions of section 3 of Public Law 92-416 (86 Stat. 653) by establishing rules and regulations governing the collection and compromise of civil penalties arising under certain designated provisions of the Shipping Act, 1916, the Intercoastal Shipping Act, 1933, and/or any order, rule or regulation (except for procedural rules and regulations contained in part 502 of this chapter) issued or made by the Commission in the exercise of its powers, duties and functions under those statutes.

§ 505.2 Definitions.

For the purpose of this part:

(a) "Commission" means the Federal Maritime Commission.

(b) "Person" includes individuals, corporations, partnerships, associations, and other legal entities existing under or authorized by the laws of the United States or any State thereof or the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, or any territory or possession of the United States, or the laws of any foreign country.

(c) "Violation" includes any violation of sections 14b through 21 (except 16 first and third) and section 44 of the Shipping Act, 1916; section 2 of the Intercoastal Shipping Act, 1933; and/or any order, rule or regulation (except for procedural rules and regulations contained in part 502 of this chapter) issued or made by the Commission in the exercise of its powers, duties, and functions under the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933.

(d) "Respondent" includes any person charged with a violation.

§ 505.3 Notice procedure.

Whenever the Commission has reason to believe that there has occurred a violation for which a civil penalty is authorized and it is decided to invoke the procedures looking toward compromise of the statutory penalties, a registered letter will be sent to the respondent informing him of the nature of the violation, the statutory and factual basis of the penalty, the amount of the penalty and the availability of Commission personnel for discussion of the penalty claim should the respondent so desire. Three written demands, at 30-day intervals, will normally be made unless a response to the first or second demand indicates that further demand would be futile or unless contrary action is indicated by the circumstances.

§ 505.4 Request for compromise.

(a) Whenever the Commission advises a person in writing that it has reason to believe that he has committed a violation, such person may submit any oral or written answer to the notification letter explaining, mitigating, showing extenuating circumstances, or, where there has been no formal proceeding on the merits, denying the violation. Material or information so presented will be considered by the Commission in making its final determination as to whether to terminate the compromise procedure or whether to compromise the penalty, and if so, the amount for which it will be compromised.

(b) All correspondence, petitions, forms, or other instruments regarding the collection, compromise, or termination of any penalty under this part should be addressed to the General Counsel, Federal Maritime Commission, 1405 I Street NW., Washington, D.C. 20573.

§ 505.5 Compromise procedure.

(a) When no penalty is invoked or the penalty claim is terminated no further action by the respondent will be necessary, and he will be notified accordingly. When the penalty is compromised, such compromise will be made conditional upon the full payment of the compromise within 30 days or such longer period, and upon such terms and conditions as may be allowed.

(b) When a statutory penalty is compromised and the respondent agrees to settle for that amount, a settlement agreement (appendix A) shall be executed. This agreement, after reciting the nature of the claim, will include a statement evidencing the respondent's agreement to the settlement of the Commission's penalty claim for the amount set forth in the agreement and will also embody an approval and acceptance provision, which is to be signed by the General Counsel of the Commission. Upon settlement of the penalty in the agreed amount, a copy of the executed settlement agreement shall be furnished to the respondent.

(c) Whenever any respondent is a party to a proceeding before the Commission, he may, during any stage of such proceeding or any appeal or appeals therefrom, by a letter to the Commission, request an opportunity to discuss the settlement of any penalty claim which may arise out of such proceeding. If the request is granted, the Commission shall promptly thereafter refer the matter to the General Counsel for disposition. Initiation of this procedure shall not, unless otherwise directed by the Commission, act as a stay of the proceeding.

(d) Any offer of compromise submitted by the respondent to the Commission pursuant to § 505.4(a) or to the General Counsel pursuant to paragraph (c) of this section shall be deemed to have been furnished by the respondent without prejudice and shall not be used against the respondent in any proceeding.

§ 505.6 Referral of violation to Department of Justice.

(a) The Commission will refer violations to the Department of Justice with the recommendation that action be taken to collect the appropriate penalty when:

(1) The respondent, within the prescribed time, does not explain the violation, petition for compromise, or otherwise respond to letters or inquiries.

(2) The respondent, having responded to such letters or inquiries, fails or refuses to pay the statutory or compromised penalty, as determined by the Commission, within the time provided.

(b) No action looking to compromise of a penalty shall be taken on any petition, irrespective of the amount involved, if the case has been referred to the Department of Justice for collection. However, should the claim be returned to the Commission, the compromise procedures set forth in this part may be reinstated.

§ 505.7 Method of payment of penalty.

Payment of penalties by the respondent shall be made by:

(a) A bank cashier's check or other instrument acceptable to the Commission.

(b) Regular installments by check after the execution of a promissory note containing a confess-judgment agreement (appendix B).

(c) A combination of the above alternatives.

All checks or other instruments submitted in payment of claims shall be made payable to Federal Maritime Commission.

Effective date.—The provisions of this part 505 will become effective on July 6, 1973.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

APPENDIX A

SETTLEMENT AGREEMENT

Whereas, consideration is being given to the institution of civil action against the undersigned respondent for recovery of penalty claims arising under the provisions of the ---------- Act, 19--, as amended, for certain alleged violation(s) of ----------

---

each of which is particularly identified and set forth as follows:

Whereas, the undersigned respondent is desirous of expeditiously settling the matter according to the terms and conditions hereof and the avoidance of delay and expense incident to litigation; and,

Whereas, Public Law 92-416 authorizes the collection and compromise of certain desig-

nated civil penalties arising under the provisions of the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933.

Now, therefore, in consideration of the premises herein, the undersigned respondent herewith tenders to the Federal Maritime Commission the sum of $_____[1] upon the following stipulations and terms of settlement:

1. Upon acceptance of this agreement of settlement in writing by the General Counsel of the Federal Maritime Commission, this instrument shall forever bar the commencement or institution of any civil action or other claim for recovery of penalties from respondent based upon those specific acts or things done or alleged to have been done or arising from those acts or things set forth and described above.

2. The undersigned voluntarily signs this instrument and states that no promises or representations have been made to the respondent other than the agreements and consideration herein expressed.

3. It is expressly understood and agreed that this instrument is not to be construed as an admission of guilt by undersigned-respondent to the alleged violations set forth above.[2]

Dated and executed this _____ day of _____, 19__.

_____
(Name of person or corporation)

_____
(Signature of officer or owner)

APPROVAL AND ACCEPTANCE

Above terms and conditions and amount of consideration approved and accepted:

By the Federal Maritime Commission:

_____
(General Counsel)

_____
(Date)

APPENDIX B

PROMISSORY NOTE CONTAINING AGREEMENT FOR JUDGEMENT

For value received (insert name of debtor), promises to pay to the order of the Federal Maritime Commission the sum of $_____ dollars in monthly installments by a bank cashier's or a certified check of not less than $_____ dollars each, on or before the first day of each calendar month until such obligation arising under the settlement agreement attached hereto and made a part hereof is fully paid. If any such installment shall remain unpaid for a period of 10 days, the entire amount of this obligation less payments actually made, shall thereupon become immediately due and payable at the option of the Federal Maritime Commission without demand or notice, said demand and notice being hereby expressly waived.

(Insert name of debtor), does hereby authorize and empower the U.S. attorney, any of his assistants or any attorney of any court of record, Federal or State, to appear for it and to enter and confess judgment against it for the entire amount of this obligation, less payments actually made, at any time after the same becomes due and payable, as herein provided, in any court of record, Federal or State; to waive the issuance and service of process upon it in any suit on this obligation; to waive any venue requirement in such suit; to release all errors which may intervene in entering up such judgment or in issuing any execution thereon; and to consent to immediate execution on said judgment.

(Insert name of debtor) hereby ratify and confirm all that said attorney may do by virtue hereof.

Dated and executed this _____ day of _____, 19__.

_____
(Insert name of debtor)

_____
(President)

[FR Doc.73-11278 Filed 6-5-73;8:45 am]

[1] Payment will be made in one, or a combination of, the following methods:

(a) A bank cashier's check or other instrument acceptable to the Commission.

(b) Regular installments by check after the execution of a promissory note, copy of which will be attached to this agreement.

[2] This provision will apply only in those instances where there has been no Commission decision in a formal proceeding on the merits as to the alleged violations.

Title 50—Wildlife and Fisheries

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

PART 32—HUNTING

Aransas National Wildlife Refuge, Tex.

The following special regulation is issued and is effective on June 6, 1973.

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

TEXAS

ARANSAS NATIONAL WILDLIFE REFUGE

Public hunting of deer and wild hogs on a portion of the Aransas National Wildlife Refuge, Tex., with bow and arrow is permitted from noon September 20 through September 24, September 28 through October 1, and October 5 through October 8, 1973. That portion open to hunting is designated by signs and delineated on maps available at refuge headquarters near Austwell, Tex., and from the regional director, Bureau of Sport Fisheries and Wildlife, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with applicable State hunting regulations subject to the following special conditions:

(1) A bag limit of three deer, either sex, no more than 2 bucks, may be taken by each hunter. There is no limit as to the number of wild hogs that may be taken.

(2) All hunters must check in and out of the hunting area at the refuge entrance on Texas Farm Road 2040.

(3) A valid 1973–74 State of Texas hunting license is required of each participant.

(4) All hunting arrows must bear the name and address of the user in a non-water-soluble medium.

(5) No target or field arrows are permitted on the refuge.

(6) Shooting at, or of other wildlife species on the refuge other than deer or wild hogs is prohibited.

(7) All motor vehicles must travel only on the shell surfaced roads or designated trails of the refuge.

(8) No deer may be removed from the refuge without a metal transportation seal being attached to the carcass by a refuge officer.

(9) In the event of an early arrival of any whooping cranes, the refuge or any portion thereof may be immediately closed to hunting.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in title 50, Code of Federal Regulations, part 32, and are effective through October 8, 1973.

L. B. MARLATT,
Acting Refuge Manager, Aransas National Wildlife Refuge, Austwell, Tex.

MAY 3, 1973.

[FR Doc.73-11257 Filed 6-5-73;8:45 am]

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Investment Credit Carryovers and Work Incentive Program Credit Carryovers in Certain Corporate Acquisitions

Notice is hereby given that the regulations set forth in tentative form attached below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, attention: CC:LR:T, Washington, D.C. 20224, by July 9, 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 July 9, 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 381(c)(23) (76 Stat. 971; 26 U.S.C. 381(c)(23)), 381(c)(24) (85 Stat. 557; 26 U.S.C. 381(c)(24)), and 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954.

[SEAL] R. F. HARLESS,
Acting Commissioner of Internal Revenue.

This document contains proposed amendments to the income tax regulations (26 CFR pt. 1) under section 381 (c) (23) and (24) of the Internal Revenue Code of 1954 in order to conform such regulations to the provisions of section 2(d) of the Revenue Act of 1962 (76 Stat. 971) and section 106 of the Revenue Act of 1971 (85 Stat. 506), relating to investment credit carryovers, and section 601(c) of the Revenue Act of 1971 (85 Stat. 557) relating to work incentive program credit carryovers.

Section 381 provides that an acquiring corporation may succeed to certain tax items or attributes of a distributor or transferor corporation in certain corporate acquisitions described in section 381(a). Among the items to which an acquiring corporation may succeed are investment credit carryovers (section 381(c)(23)) and work incentive program credit carryovers (section 381(c)(24)).

The purpose of the proposed amendment is to provide rules to govern the manner in which the above-mentioned carryovers of a distributor or transferor corporation are to be taken into account by an acquiring corporation in the year of acquisition and in subsequent taxable years.

The proposed regulations provide that the investment credit carryovers and work incentive program (WIN) credit carryovers of a distributor or transferor corporation (computed as of the close of the date of distribution or transfer) may be carried to the first taxable year of the acquiring corporation ending after the date of distribution or transfer and integrated with the carryovers and carrybacks of the acquiring corporation for purposes of computing the amount of credit allowed by section 38 or by section 40 for such first taxable year and for subsequent taxable years.

The proposed regulations deal with the computation of carryovers in two cases: (1) When the distribution or transfer occurs on the last day of an acquiring corporation's taxable year, and (2) when the distribution or transfer occurs on a day other than the last day of an acquiring corporation's taxable year. When the distribution occurs on the last day of an acquiring corporation's taxable year, the unused credits of the distributor or transferor corporation are integrated with the unused credits of the acquiring corporation and applied against the excess limitation (i.e., the excess of the limitation based on tax over the credit earned) of the acquiring corporation for its next succeeding taxable year. On the other hand, if the distribution or transfer occurs on a day other than the last day of the acquiring corporation's taxable year, then the amount of unused credit of a distributor or transferor corporation which may be taken into account by the acquiring corporation in the year of acquisition is limited to that portion of the excess limitation for such year which is attributable to the period beginning on the date following the date of distribution or transfer and ending with the close of the taxable year.

The proposed regulations contain special rules dealing with the carryover of unused investment credits arising in taxable years ending before January 1, 1971, which may be carried to a taxable year beginning after December 31, 1970. Also, the proposed regulations provide special rules dealing with the manner in which the limitation contained in section 46(b)(5) is to be applied in the case of a corporate acquisition.

Proposed amendments to the regulations.—In order to conform the income tax regulations (26 CFR pt. 1) to certain provisions of section 2 of the Revenue Act of 1962 (76 Stat. 962), relating to credit for investment in certain depreciable property, and section 601(c) of the Revenue Act of 1971 (85 Stat. 557), relating to credit under section 40 for work incentive program expenses, such regulations are amended as follows:

PARAGRAPH 1. Paragraph (e) of § 1.46–2 is revised to read as follows:

§ 1.46–2 Carryback and carryover of unused credit.

* * * * *

(e) *Corporate acquisitions.*—For the carryover of unused credits in the case of certain corporate acquisitions, see section 381(c)(23) and § 1.381(c)(23)–1.

* * * * *

PAR. 2. Section 1.381(c)(6) is amended by revising section 381(c)(6) and by revising the historical note to read as follows:

§ 1.381(c)(6) Statutory provisions; carryovers in certain corporate acquisitions; items of the distributor or transferor corporation; method of computing depreciation allowance.

SEC. 381. *Carryovers in certain corporate acquisitions.* * * *

(c) *Items of the distributor or transferor corporation.*—The items referred to in subsection (a) are:

* * * * *

(6) *Method of computing depreciation allowance.*—The acquiring corporation shall be treated as the distributor or transferor corporation for purposes of computing the depreciation allowance under subsections (b), (j), and (k) of section 167 on property acquired in a distribution or transfer with respect to so much of the basis in the hands of the acquiring corporation as does not exceed the adjusted basis in the hands of the distributor or transferor corporation.

(Sec. 381(c)(6) as amended by sec. 521(f), Tax Reform Act 1969 (83 Stat. 654).)

PAR. 3. There are inserted immediately after § 1.381(c)(22)–1 the following new sections:

§ 1.381(c)(23) Statutory provisions; carryovers in certain corporate acquisitions; items of the distributor or transferor corporation; credit under section 38 for investment in certain depreciable property.

SEC. 381. *Carryovers in certain corporate acquisitions.* * * *

(c) *Items of the distributor or transferor corporation.*—The items referred to in subsection (a) are:

* * * * *

(23) *Credit under section 38 for investment in certain depreciable property.*—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 38, and under such regulations as may be prescribed by the Secretary or his delegate) the items required to be taken into account for purposes of section 38 in respect of the distributor or transferor corporation.

(Sec. 381(c)(23) as added by sec. 2(d), Rev. Act 1962 (76 Stat. 971).)

§ 1.381(c)(23)–1 Investment credit carryovers in certain corporate acquisitions.

(a) *Carryover requirement.*—(1) Section 381(c)(23) requires the acquiring corporation in a transaction to which section 381 applies to succeed to and take into account under such regulations as may be prescribed by the Secretary or his delegate, the investment credit carryovers of the distributor or transferor corporation. To determine the amount of these carryovers as of the close of the date of distribution or transfer, and to integrate them with any carryovers and carrybacks of the acquiring corporation for purposes of determining the amount of credit allowed by section 38 to the acquiring corporation for taxable years ending after the date of distribution or transfer, it is necessary to apply the provisions of sections 46, 47, and 48 in accordance with the conditions and limitations of this section.

(2) The investment credit carryovers and carrybacks of the acquiring corporation determined as of the close of the date of distribution or transfer shall be computed without reference to any unused credit of a distributor or transferor corporation. The investment credit carryovers of a distributor or transferor corporation as of the close of the date of distribution or transfer shall be determined without reference to any unused credit of the acquiring corporation.

(b) *Carryback of unused credits.*—An unused credit of the acquiring corporation for any taxable year ending after the date of distribution or transfer shall not be carried back in computing the credit allowed by section 38 to a distributor or transferor corporation. However, an unused credit of the acquiring corporation for any such taxable year shall be carried back in accordance with section 46(b)(1) in computing the credit allowed to the acquiring corporation for a taxable year ending on or before the date of distribution or transfer. If a distributor or transferor corporation remains in existence after the date of distribution or transfer, an unused credit sustained by it for any taxable year beginning after such date shall be carried back in accordance with section 46(b)(1) in computing the credit allowed by section 38 to such corporation for a taxable year ending on or before that date, but may not be carried back or over in computing the credit allowed by section 38 to the acquiring corporation.

(c) *Computation of carryovers and carrybacks.*—(1) Subject to the modifications set forth in this paragraph, the provisions of § 1.46–2 shall apply in computing carryovers and carrybacks of unused credits to taxable years of the acquiring corporation.

(2) (i) The investment credit carryovers available to the distributor or transferor corporation as of the close of the date of distribution or transfer shall first be carried to the first taxable year of the acquiring corporation ending after that date. This rule applies whether the date of distribution or transfer is on the last day, or any other day, of the acquiring corporation's taxable year.

(ii) The investment credit carryovers available to the distributor or transferor corporation as of the close of the date of distribution or transfer shall be carried to the acquiring corporation without diminution by reason of the fact that the acquiring corporation does not acquire 100 percent of the assets of the distributor or transferor corporation.

(3) An unused credit of a distributor or transferor corporation for a taxable year which ends on or before the last day of a taxable year of the acquiring corporation shall be considered to be an unused credit for a year prior to such taxable year of the acquiring corporation. If the acquiring corporation has acquired the assets of two or more distributor or transferor corporations on the same date of distribution or transfer, the unused credit years of the distributor or transferor corporations shall be taken into account in the order in which such years terminate. If any one of the unused credit years of a distributor or transferor corporation ends on the same day as the unused credit year of another distributor or transferor corporation, either unused credit year may be taken into account before the other.

(4) The extent to which an investment credit carryover of a distributor or transferor corporation or of an acquiring corporation from an unused credit year ending before January 1, 1971, may be taken into account by the acquiring corporation for a taxable year beginning after December 31, 1970, shall be determined without regard to the credit earned by the acquiring corporation for such year. Thus, in such a case, the amount of unused credit from such unused credit years which may be taken into account in a taxable year of the acquiring corporation beginning after December 31, 1970, shall be determined solely with reference to the limitation based on amount of tax for such taxable year (without reduction for the credit earned for such year).

(d) *Computation of carryovers when date of distribution or transfer occurs on last day of acquiring corporation's taxable year.*—The computation of the investment credit carryovers from the distributor or transferor corporation and from the acquiring corporation in a case where the date of distribution or transfer occurs on the last day of a taxable year of the acquiring corporation may be illustrated by the following example:

Example.—X Corporation and Y Corporation were organized on January 1, 1971, and each corporation files its return on the calendar year basis. On December 31, 1972, X transfers all its assets to Y in a statutory merger to which section 361 applies. X's credit earned and its limitation based on amount of tax for its taxable years 1971 and 1972 are as follows:

X Corporation's taxable year	Credit earned	Limitation based on amount of tax
1971	$10,000	$5,000
1972	5,000	3,000

Y's credit earned and its limitation based on amount of tax for its taxable years 1971 through 1973 are as follows:

Y Corporation's taxable year	Credit earned	Limitation based on amount of tax
1971	$6,000	$5,000
1972	5,000	3,000
1973	3,000	10,000

The sequence for the allowance of unused credits of X Corporation and Y Corporation, and the computation of the carryovers to Y Corporation's calendar year 1974, may be illustrated as follows:

(1) *X Corporation's 1971 unused credit.*—The carryover to Y 1974 is $0, computed as follows:

Unused credit	$5,000
Excess of X's 1972 limitation based on tax over credit earned	0
Carryover to Y's year 1973	5,000
Excess of Y's 1973 limitation based on tax over credit earned	7,000
Carryover to Y's year 1974	0

(2) *Y Corporation's 1971 unused credit.*—The carryover to Y 1974 is $0, computed as follows:

Unused credit	$1,000
Excess of Y's 1972 limitation based on tax over credit earned	0
Carryover to Y's year 1973	1,000
Excess of Y's 1973 limitation based on tax over credit earned	7,000
Less: X's $5,000 carryover from 1971	5,000
	2,000
Carryover to Y's year 1974	0

(3) *X Corporation's 1972 unused credit.*—The carryover to Y 1974 is $1,000, computed as follows:

Unused credit	$2,000
Excess of Y's 1973 limitation based on tax over credit earned	7,000
Less: X's $5,000 carryover from 1971 and Y's $1,000 carryover from 1971	6,000
	1,000
Carryover to Y's year 1974	1,000

(4) *Y Corporation's 1972 unused credit.*—The carryover to Y 1974 is $2,000, computed as follows:

Unused credit	$2,000
Excess of Y's 1973 limitation based on tax over credit earned	7,000
Less: X's $5,000 carryover from 1971, Y's $1,000 carryover from 1971 and X's $1,000 carryover from 1972	7,000
	0
Carryover to Y's year 1974	2,000

(5) The aggregate of the investment credit carryovers to Y's year 1974 is $3,000, computed as follows:

X's 1972 unused credit	$1,000
Y's 1972 unused credit	2,000
Total	3,000

(e) *Computation of carryovers when date of distribution or transfer is not on last day of acquiring corporation's taxable year.*—(1) If the date of distribution or transfer occurs on any day other than the last day of a taxable year of the acquiring corporation, the amount which may be added to the amount allowable as a credit by section 38 for the first taxable year of the acquiring corporation ending after the date of distribution or transfer (hereinafter called the "year of acquisition") shall be determined in the following manner. The year of acquisition shall be considered as though it were 2 taxable years. The first of such 2 taxable years shall be referred to in this paragraph as the preacquisition part year and shall begin with the beginning of the year of acquisition and end with the close of the date of distribution or transfer. The second of such 2 taxable years shall be referred to in this paragraph as the postacquisition part year and shall begin with the day following the date of distribution or transfer and shall end with the close of the year of acquisition.

(2) The excess limitation for the year of acquisition (i.e., the excess of the limitation based on the amount of tax for such year over the amount of credit earned for such year) shall be divided between the preacquisition part year and the postacquisition part year in proportion to the number of days in each. Thus, if in a statutory merger to which section 361 applies Y Corporation, a calendar year taxpayer, acquires the assets of X Corporation on June 30, 1975, and Y Corporation has an excess limitation of $36,500 for its calendar year 1975, then the excess limitation for the preacquisition part year would be $18,100 ($36,500×181/365) and the excess limitation for the postacquisition part year would be $18,400 ($36,500×184/365).

(3) An unused credit of the acquiring corporation shall be carried to and applied against the excess limitation for the preacquisition part year and then carried to and applied against the excess limitation for the postacquisition part year, whereas an unused credit of the distributor or transferor corporation shall not be carried to the preacquisition part year but shall only be carried to and applied against the excess limitation for the postacquisition part year. For special rule relating to carryovers from taxable years ending before January 1, 1971, to taxable years beginning after December 31, 1970, see subparagraph (6) of this paragraph.

(4) Though considered as two separate taxable years for purposes of this paragraph, the preacquisition part year and the postacquisition part year are treated as one taxable year in determining the years to which an unused credit is carred under section 46(b)(1).

(5) The preceding subparagraphs may be illustrated by the following example:

Example.—X Corporation and Y Corporation were organized on January 1, 1971, and each corporation files its return on the calendar year basis. On May 1, 1972, X transfers all its assets to Y in a statutory merger to which section 361 applies. X's credit earned and its limitation based on amount of tax for its taxable years 1971 and ending May 1, 1972, are as follows:

X Corporation's taxable year	Credit earned	Limitation based on amount of tax
1971	$11,000	$5,000
Ending 5-1-72	3,000	6,000

Y's credit earned and its limitation based on amount of tax for its taxable years 1971 and 1972 are as follows:

X Corporation's taxable year	Credit earned	Limitation based on amount of tax
1971	$7,000	$3,000
1972	3,000	9,000

The sequence for the allowance of unused credits of X Corporation and Y Corporation, and the computation of carryovers to Y Corporation's calendar year 1973, may be illustrated as follows:

(i) *X Corporation's 1971 unused credit.*—The carryover to Y 1973 is $0, computed as follows:

Unused credit	$6,000
Excess of X's 5-1-72 limitation based on tax over credit earned	3,000
Carryover to Y's postacquisition part year 1972	3,000
Excess limitation for Y's postacquisition part year ($6,000×244/366)	4,000
Carryover to Y's year 1973	0

(ii) *Y Corporation's 1971 unused credit.*—The carryover to Y 1973 is $1,000, computed as follows:

Unused credit	$4,000
Excess limitation for Y's preacquisition part year ($6,000×122/366)	2,000
Carryover to Y's postacquisition part year	2,000
Excess limitation for Y's postacquisition part year ($6,000×244/366)	4,000
Less: X's $3,000 carryover from 1971	3,000
	1,000
Carryover to Y's year 1973	1,000

(iii) The aggregate of the investment credit carryovers to Y's year 1973 is $1,000, computed as follows:

X's 1971 unused credit	0
Y's 1971 unused credit	1,000
Total	1,000

(6) If the year of acquisition is a taxable year beginning after December 31, 1970, and if there is an unused credit of the distributor or transferor corporation or of the acquiring corporation arising in an unused credit year ending before January 1, 1971, which may be carried to such year of acquisition (see paragraph (c)(4) of this section), then in applying subparagraphs (1), (2), and (3) of this paragraph, in lieu of dividing the excess limitation for the year of acquisition between the preacquisition and postacquisition part years, only the limitation based on the amount of tax for such year (i.e., without reduction for the credit earned) shall be divided between the preacquisition and postacquisition part years. If there is also an unused credit arising in an unused credit year ending after December 31, 1970, which may be carried to the year of acquisition, then for the purpose of determining the amount of such unused credit which may be taken into account for such year of acquisition, the credit earned for the year of acquisition shall first be applied against the limitation based on amount of tax for the preacquisition part year (reduced by any investment credit carryovers to such part year from unused credit years ending before January 1, 1971) and the excess, if any, shall then be applied against the limitation based on amount of tax for the postacquisition part year (also reduced by any investment credit carryovers to such part year from unused credit years ending before January 1, 1971).

(7) Subparagraph (6) of this paragraph may be illustrated by the following example:

Example.—X Corporation and Y Corporation were organized on January 1, 1970, and each corporation files its return on the calendar year basis. On May 1, 1972, X transfers all its assets to Y in a statutory merger to which section 361 applies. X's credit earned and its limitation based on amount of tax for its taxable years 1970, 1971, and ending May 1, 1972, are as follows:

Y Corporation's taxable year	Credit earned	Limitation based on amount of tax
1970	$300	
1971	100	
Ending 5-1-72	200	

Y's credit earned and its limitation based on amount of tax for its taxable years 1970 through 1972 are as follows:

Y Corporation's taxable year	Credit earned	Limitation based on amount of tax
1970	$100	
1971	200	
1972	300	$900

The sequence for the allowance of unused credits of X Corporation and Y Corporation, and the computation of carryovers to Y Corporation's calendar year 1973, may be illustrated as follows:

(i) *X Corporation's 1970 unused credit.*—The carryover to Y 1973 is $0, computed as follows:

Unused credit	$300
X Corporation's 1971 limitation based on tax	0
X Corporation's 5–1–72 limitation based on tax	0
Carryover to Y's postacquisition part year 1972	300
Limitation based on tax for Y's postacquisition part year 1972 ($900×244/366)	600
Carryover to Y's year 1973	0

(ii) *Y Corporation's 1970 unused credit.*—The carryover to Y 1973 is $0, computed as follows:

Unused credit	$100
Y Corporation's 1971 limitation based on tax	0
Carryover to Y's preacquisition part year 1972	100
Limitation based on tax for Y's preacquisition part year 1972 ($900×122/366)	300
Carryover to Y's postacquisition part year 1972	0

(iii) *Y Corporation's credit earned for 1972.*—The carryover to Y 1973 is $0, computed as follows:

Credit earned	$300
Limitation based on tax for preacquisition part year 1972 ($900×122/366)	300
Less: Y's $100 carryover from 1970	100
	$200
Carryover to Y's postacquisition part year 1972	100
Limitation based on tax for postacquisition part year 1972 ($900×244/366)	600
Less: X's $300 carryover from 1970	300
	300
Carryover to Y's year 1973	0

(iv) *X Corporation's 1971 unused credit.*—The carryover to Y 1973 is $0, computed as follows:

Unused credit	$100
Excess of X's 1972 limitation based on tax over credit earned	0
Carryover to Y's postacquisition part year 1972	100
Limitation based on tax for postacquisition part year 1972 ($900×244/366)	600
Less:	
X's $300 carryover from 1970	300
Y's 1972 credit earned for postacquisition part year	100
	400
	200
Carryover to Y's year 1973	0

(v) *Y Corporation's 1971 unused credit.*—The carryover to Y 1973 is $100, computed as follows:

Unused credit	$200
Limitation based on tax for preacquisition part year 1972 ($900×122/366)	300
Less:	
Y's $100 carryover from 1970	100
Y's 1972 credit earned for preacquisition part year 1972	200
	300
	0
Carryover to Y's postacquisition part year	200
Limitation based on tax for postacquisition part year 1972 ($900×244/366)	600
Less:	
X's $300 carryover from 1970	300
Y's 1972 credit earned for postacquisition part year 1972	100
X's $100 carryover from 1971	100
	500
	100
Carryover to Y's year 1973	100

(vi) *X Corporation's 5–1–72 unused credit.*—The carryover to Y 1973 is $200, computed as follows:

Unused credit	$200
Limitation based on tax for postacquisition part year 1972 ($900×244/366)	600
Less:	
X's $300 carryover from 1970	300
Y's 1972 credit earned for postacquisition part year 1972	100
X's $100 carryover from 1971, and Y's $100 carryover from 1971	200
	600
	0

(vii) The aggregate of the investment credit carryovers to Y 1973 is $300, computed as follows:

Y's 1971 unused credit	$100
X's 1972 unused credit	200
Total	300

(8) If the year of acquisition is a taxable year to which the limitation provided in § 1.46–2(b)(2) (relating to 20-percent limitation on carryovers and carrybacks to certain taxable years) applies, then for purposes of applying such limitation the preacquisition part year and the postacquisition part year shall each be considered a fractional part of a year, but, if the date of distribution or transfer is not on the last day of a month, the entire month in which the date of distribution or transfer occurs shall be considered as included in the preacquisition part year and no portion thereof shall be considered as included in the postacquisition part year.

(9) If the acquiring corporation succeeds to the investment credit carryovers of two or more distributor or transferor corporations on two or more dates of distribution or transfer during the same taxable year of the acquiring corporation, the manner in which the unused credits of the distributor or transferor corporations shall be applied shall be determined consistently with the rules prescribed in paragraph (c) of § 1.381(c)(1)–2.

(f) *Successive acquiring corporations.*—An acquiring corporation which, in a distribution or transfer to which section 381(a) applies, acquires the assets of a distributor or transferor corporation which previously acquired the assets of another corporation in a transaction to which section 381(a) applies, shall succeed to and take into account, subject to the conditions and limitations of § 1.46–2 and this section, the investment credit carryovers available to the first acquiring corporation under § 1.46–2 and this section.

(g) *Recomputation of credit allowed by section 38 on certain property of acquiring corporation.*—If section 38 property acquired by an acquiring corporation in a transaction to which section 381(a) applies is disposed of, or otherwise ceases to be section 38 property (or becomes public utility property) with respect to the acquiring corporation, before the close of the estimated useful life which was taken into account in computing the distributor or transferor corporation's qualified investment, see paragraph (e) of § 1.47–3.

(h) *Electing small business corporation.*—An unused credit of a distributor or transferor corporation arising in an unused credit year for which such corporation is not an electing small business corporation (as defined in section 1371(b)) may not be carried over in a transaction to which section 381 applies to a taxable year of the acquiring corporation for which such corporation is an electing small business corporation and may not be added to the amount allowable as a credit under section 38 to the shareholders of the acquiring corporation for such taxable year. However, in such a case, a taxable year for which the acquiring corporation is an electing small business corporation shall be counted as a taxable year for purposes of determining the taxable years to which such unused credit may be carried.

§ 1.381(c)(24) Statutory provisions; carryovers in certain corporate acquisitions; items of the distributor or transferor corporation; credit under section 40 for work incentive program expenses.

SEC. 381. *Carryovers in certain corporate acquisitions.* * * *

(c) *Items of the distributor or transferor corporation.*—The items referred to in subsection (a) are:

* * * * *

(24) *Credit under section 40 for work incentive program expenses.*—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 40, and under such regulations as may be prescribed by the Secretary or his delegate) the items required to be taken into account for purposes of section 40 in respect of the distributor or transferor corporation.

(Sec. 381(c)(24) as added by sec. 601(c), Rev. Act 1971 (85 Stat. 557).)

§ 1.381(c)(24)–1 Work incentive program credit carryovers in certain corporate acquisitions.

The computation of carryovers and carrybacks of unused WIN credits in a transaction to which section 381 applies shall be made under the principles of § 1.381(c)(23)–1 (relating to the computation of carryovers and carrybacks of unused investment credits), except that the provisions of paragraph (c)(4) and paragraph (e)(6), (7), and (8) of such section shall not apply.

[FR Doc.73-10685 Filed 6-5-73;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 80]

RESTORATION OF GAME BIRDS, FISH, AND MAMMALS

Proposed Revision of Administrative Procedures; Extension of Time for Comments

In FR Doc. 73-5280, 38 FR 7334, March 20, 1973, the deadline for written comments, suggestions, or objections was stated as May 4, 1973.

An additional period is allowed for comment. Accordingly, interested persons may submit written comments, suggestions, or objections to the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240, on or before June 15, 1973.

F. V. SCHMIDT,
Acting Director, Bureau of Sport Fisheries and Wildlife.

MAY 31, 1973.

[FR Doc.73-11258 Filed 6-5-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 911]

HANDLING OF LIMES GROWN IN FLORIDA

Approval of Expenses and Fixing of Rate of Assessment for Fiscal 1973–74 and Carryover of Unexpended Funds

The U.S. Department of Agriculture's Agricultural Marketing Service is considering proposals submitted by the Florida Lime Administrative Committee, established under the amended marketing agreement and order No. 911, regulating the handling of limes grown in Florida. All persons who desire to submit written comments for consideration in connection with the proposals shall file the same, in the manner prescribed, not later than June 14, 1973. The proposals include: (1) The expenses that are reasonable and likely to be incurred by the committee during the 1973–74 fiscal year; (2) the rate of assessment payable by each handler of limes; and (3) the amount of unexpended assessment funds to be carried over as a reserve.

Consideration is being given to the following proposals submitted by the Florida Lime Administrative Committee, established under the marketing agreement, as amended, and order No. 911, as amended (7 CFR 911), regulating the handling of limes grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(1) That expenses that are reasonable and likely to be incurred by the Florida Lime Administrative Committee, during the period from April 1, 1973, through March 31, 1974, will amount to $29,750;

(2) That there be fixed, at $0.035 per bushel of limes the rate of assessment payable by each handler in accordance with § 911.41 of the aforesaid marketing agreement and order; and

(3) Unexpended assessment funds in the amount of approximately $17,479, which are in excess of expenses incurred during the fiscal year ending March 31, 1973, shall be carried over as a reserve in accordance with § 911.42 of said amended marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, room 112, Administration Building, Washington, D.C. 20250, not later than June 14, 1973. 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)).

Dated June 1, 1973.

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

[FR Doc.73-11312 Filed 6-5-73;8:45 am]

[7 CFR Part 1125]

[Docket No. AO 226-A25]

MILK IN THE PUGET SOUND, WASH., MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and to Order

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Puget Sound, Wash., marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR pt. 900), at Seattle, Wash., pursuant to notice thereof issued on April 6, 1972 (37 FR 7259).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, regulatory programs, on February 26, 1973 (38 FR 5882) filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

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

1. Under Issue 1(b), "Pool plant qualifications.", six paragraphs are added immediately after paragraph 22.

2. Under Issue 2, "Diversion of producer milk.", the introductory paragraph is revised, and four paragraphs are added immediately after paragraph 9.

3. Under Issue 4, "Changing the butterfat differentials.", paragraph 13 is revised, and paragraphs 14 and 15 are replaced by four new paragraphs.

4. Under Issue 5(a), "Classification provisions.", two new paragraphs are added immediately after paragraph 3.

5. Under Issue 7(1), "Administrative provisions.", a new subparagraph (6) is added.

The material issues on the record relate to:

1. Pool plant qualifications.
2. Diversion of producer milk.
3. Location adjustments.
4. Butterfat differentials.
5. Classification provisions.
6. Payments to producers.
7. Administrative provisions.

At the hearing, no testimony was presented concerning hearing notice proposals 4 and 8, and no other evidence submitted indicated a need to adopt the proposals. Accordingly, the proposals are denied.

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. *Pool plant qualifications—(a) Pool distributing plants.* The provisions for pooling "distributing plants" should not be changed.

Currently, the order provides pool plant status for any distributing plant from which during the month route disposition of fluid milk products in the marketing area averages more than 110 pounds daily and is 10 percent or more of the receipts of Grade A milk at the plant.

A cooperative association supplying the market proposed that the percentage factor be increased to 25 percent from the 10 percent now provided. The proposal is part of a proposed comprehensive revision of pooling qualifications. Proponent proposed to change the pooling standards for distributing plants on the basis that to be pooled such plants

should have a greater degree of association with the Puget Sound market than is now required by the order.

Each pool distributing plant now operating in the market characteristically has a substantial proportion of its Class I sales within the marketing area. As a general proposition, the proposal would make possible for the future a higher incidence of exemption from regulation for distributing plants. We find insufficient evidence in this proceeding to warrant adoption of provisions that would tend to reduce the proportion of milk pooled through pool distributing plants. The operation of the pool is an essential feature of this 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 present provision accomplishes this and at the same time permits exemption from pooling milk at a plant that might only incidentally, or perhaps accidentally, become involved in distribution within the marketing area. For this reason, the proposal is denied.

(b) *Pool supply plants.* The provisions for pooling supply plants should be changed. As set forth herein, a supply plant would be pooled in any month during which the following percentages of Grade A receipts are shipped to pool distributing plants: 50 percent in any of the months of October through December, 40 percent in January, February, and September, and 30 percent in any of the months of March through August. Any supply plant that qualified for pooling during the entire period of September through February would pool automatically during the months of March through August.

Currently, the order provides pool supply plant status for a plant located in the marketing area, at which Grade A milk is received from dairy farmers or cooperative associations.

For supply plants that are located outside the marketing area pool status is now extended to such plant if it ships 50 percent of its Grade A receipts to pool distributing plants during the months of October through December, or 20 percent during the months of January through September. Any supply plant that qualifies for pool status during the entire period of October through December qualifies automatically for pool status during the months of January through September.

A cooperative proposed that the pooling standards for supply plants be amended to eliminate the provision whereby a plant may be pooled as a supply plant if it is located in the marketing area and receives Grade A milk from dairy farmers. The association proposed in lieu thereof that a plant located within the marketing area must ship at least 25 percent of its Grade A receipts from dairy farmers to pool distributing plants in each of the months of September through March in order to qualify as a pool supply plant.

For supply plants located outside the marketing area, proponent proposed that the months during which the 50 percent factor is applicable should be extended to include the months of September through March, and that during the months of April through August shipments to pool distributing plants should represent at least 30 percent of such plant's Grade A receipts from dairy farmers.

In addition, proponent proposed special provisions whereby a cooperative association could apply direct deliveries from its members' farms to pool distributing plants in qualifying a supply plant for pool status. Similarly, under proponent's proposal, a proprietary handler could apply direct deliveries from the farms of its patrons (not members of a cooperative association) to its own pool distributing plant in qualifying a supply plant for pool status.

Proponent based the claim for establishing these performance standards on the stated necessity for supply plants to have a greater degree of association with the fluid market than at present.

The proposals were opposed by a proprietary handler operating in the market. If adopted, the proposals would result in depooling the handler's supply plant.

Another proprietary handler serving the market acknowledged the need for each supply plant to serve the fluid market but stressed that no supply plant that historically had been associated with the Puget Sound fluid market should be deprived of pool status by any amendment resulting from the hearing.

Pooling standards for supply plants identify plants that are associated with the market as regular suppliers of milk needed for fluid use. Such standards distinguish between plants meeting a reasonable standard of regular and customary supply service to the market and those that do not. The requirements encourage milk shipments to the end that handlers engaged in bottling and distributing operations in the market can obtain the available milk as needed to meet their fluid milk requirements. Without such requirement, supply plants will tend to keep milk at their plants for manufacturing whenever it is to their economic advantage to do so.

Additionally, pooling standards are intended to accommodate a sharing of the Class I sales of the regulated market among those dairy farmers who constitute its regular sources of milk supply. Otherwise, dairy farmers who have no regular affiliation could casually, or in an incidental manner, associate with the market when it is to their economic advantage to do so, but without intention of providing the market with a dependable supply over time.

There are five pool supply plants under the order at present. All are pooled on the basis simply of being located in the marketing area and of receiving Grade A milk from dairy farmers or cooperative associations.

Two of the supply plants, one at Issaquah and another at Lynden, Wash., are operated by a cooperative association, members of which supply the market by shipment to pool distributing plants.

Two supply plants are operated by proprietary handlers. One, at Mount Vernon, Wash., has been pooled as a supply plant since the inception of the order. The other, at Olympia, Wash., has been pooled as a supply plant for about 6 years.

The fifth plant, also operated by a proprietary handler, has bottling operations, but its fluid milk disposition in the marketing area is insufficient, under present rules, for pooling it as a distributing plant. It is pooled as a supply plant on the basis that it is located in the marketing area.

Two important considerations emerge from the evidence presented at the hearing. In this market milk is not shipped regularly from supply plants to pool distributing plants. Instead, the supply system for the market is organized on the basis of direct delivery from farms to pool distributing plants. Thus, the manufacture of market reserves need not occur in pool supply plants but can be diverted from pool distributing plants to manufacturing plants (i.e., butter-nonfat dry milk, evaporated milk and cheese plants) not necessarily having pool plant status.

The other consideration is that provision should continue to be made for a supply plant wherever located to share in pool proceeds if it supplies milk to a pool distributing plant under reasonable performance standards.

While the supply system for the market does not rely ordinarily on supply plants to furnish the main fluid milk requirements of pool distributing plants, this does not mean that shipping standards for supply plants should not be provided in the order. To the contrary, such standards should continue to be provided, as they are in other Federal milk orders, to accommodate the movement of milk to pool distributing plants from plants distantly located in the event that milk procured from such plants is instrumental in providing for the fluid milk needs of the market.

Such shipping standards should apply uniformly to any supply plant wherever located. Access to the market by supply plants should be on the same basis for each plant. Otherwise, access to the market may be facilitated for one category of plant and made more difficult for another category. Consequently, the proposal submitted by producer proponents is not adopted.

As earlier stated, the cooperative association further proposed that the direct deliveries from its members' farms to pool distributing plants be applied toward qualifying a cooperative association supply plant for pooling. It proposed also that the direct deliveries from the

producer patrons of a proprietary handler to his pool distributing plant be applied toward qualifying such handler's supply plant.

The changes provided herein will assure continued pool status for the milk of producers who have regularly supplied the market. The adoption of the additional proposals made by the cooperative association, as described above, will not be necessary because the provisions provided herein will achieve the same objective of continuing pool status for milk that has been regularly associated with the market in the past.

The supply plant pooling standards provided herein will assure that all supply plants will have access to the market on the same delivery performance terms. Also, they are sufficiently similar to counterpart provisions of the other Federal milk orders in the Northwest that each of such regulated markets with overlapping milksheds will have opportunity to procure milk on a reasonable competitive basis insofar as the respective pooling provisions of the orders are involved.

In their exceptions to the recommended decision, two proprietary operators of plants with manufacturing operations objected to the pool supply plant provisions adopted. One stated that his supply plant should not lose pool plant status "for the mere sake of uniformity with provisions of other orders." The other stated that the proposed provisions will raise his cost of milk for manufacturing cheese; also that the hearing should be reopened to reconsider the pool supply plant proposals in light of current marketing conditions.

The pool supply plant provisions are not adopted, as the first exceptor claims, for the sake of providing supply plant provisions that are uniform with other orders. As earlier stated, most of the milk supply for the fluid market is produced within the marketing area. It has become efficient to deliver such milk to bottling plants on a "direct delivery" basis. There is no longer a need for country assembly of milk within the market area to serve such fluid outlets. Supply plant performance standards are needed, however, in the event that more distant milk, competes in the market at some future time. The provisions adopted will provide such plants with a reasonable basis of access to the market without causing disorderly marketing for producers now serving the market.

The second exceptor operates a cheese manufacturing plant in the marketing area. The manufacture of cheese is the sole operation of the plant. No fluid milk sales are made from the plant, and no milk is shipped to pool distributing plants for fluid disposition therefrom. The plant in question consequently serves no supply functon relative to the higher-valued fluid market and none is needed. Rather, such plant has tended to rely heavily on other plants and on purchases from cooperative associations for the greater part of its milk supply destined for manufacturing. The situation described above is pertinent also to this exception, i.e., that the great majority of milk for fluid needs is produced within the marketing area and the normal method of delivery is directly from farms to pool distributing plants.

A major concern of the order pricing and pooling provisions is, of course, to insure milk supplies for the fluid market and reasonable distribution among producers of the returns from this higher-valued market they serve. They are not designed to guarantee, or even facilitate, the flow of milk into manufacturing uses other than to dispose of unneeded excesses of milk qualified for fluid use.

We conclude that adoption in this market of pricing and pooling provisions that would tend to encourage the movement of producer milk to a proprietary plant for a strictly manufacturing operation could actually work against producer interests. Producers can utilize, in their own manufacturing facilities, such of their own milk as is excess to fluid needs, at a return comparable to, perhaps even exceeding, what they may realize from delivery to a proprietary plant at the minimum Class III price.

Exceptor stated further that the recommended decision does not take into account changed marketing conditions occurring during the 10 months between the hearing and the recommended decision that may affect the pool supply plant provisions finally adopted. It is evident that for a long period virtually all milk needed for the fluid market has been produced within the defined marketing area and delivered directly from farms to pool distributing plants. There is no basis for assuming that this supply system for the market has changed appreciably during this period. Accordingly, the request to convene a new hearing to reconsider the basis of pooling plants is denied.

The pool plant provisions of the order should specify that the term "pool plant" shall not include a producer-handler plant. Nor 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 order presently provides for such provisions in another section, but the order would be clarified by repositioning them as part of the pool plant provisions. A specific proposal to do this was considered at the hearing and was not opposed. However, in redrafting the pool plant provision in its entirety, it is appropriate to provide a basis for determining when distributing plants, as well as supply plants, that otherwise meet the conditions for pooling nevertheless are to be excluded as pool plants.

The term pool plant 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 Puget Sound order in the immediately preceding month, it would continue to be subject to all the provisions of the Puget Sound 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 coordinating, within the region, the treatment of distributing plants for pooling purposes in the event of overlapping route disposition that results in qualifying such plant for pooling under more than one order. However, it would tend to prevent disruptive, casual shifting between orders on a month-by-month basis.

Concerning a supply plant, the order should provide that such plant shall not be a pool plant if it also meets the pooling requirements of another Federal order and greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under the Puget Sound order.

The foregoing provisions are the same as those provided in the adjacent Oregon-Washington order and should improve coordination of order provisions should the need arise for the market administrator to determine under which order a distributing plant or supply plant should be regulated when it is subject to the pooling provisions of more than one order.

While the changes provided herein are not identical to the provisions provided in the Inland Empire order, here also they should provide greater coordination than at present in determining the order under which a distributing plant or a supply plant should be regulated when it is subject to the pooling provisions of both the Puget Sound and Inland Empire orders.

2. *Diversions of producer milk.*—The diversion provisions of the order should be revised to provide that the quantity of producer milk diverted from a pool distributing plant to any nonpool plant, or to a commercial food processing establishment located in Pacific County, Wash., may not exceed 70 percent in the months of September through January, and 80 percent in the months of February through April of the producer milk received at such distributing plant (including that diverted). During the months of May through August no limit should apply on the quantity of milk that may be so diverted. Diversions from a pool supply plant should not exceed 50 percent of the producer milk received at such plant during any month.

The diversion provisions provided herein would apply equally to cooperative associations and to proprietary handlers. Currently, the order provides no limitations on the quantity of producer milk that may be diverted to nonpool plants.

Diversion of milk directly from the farm to a nonpool manufacturing plant is a method by which a handler (including a cooperative association) may dispose of, in an efficient manner, the reserve milk that is a necessary part of his regular supply. In order to be assured of an adequate supply every day, a handler procuring his own milk supply must arrange for sufficient supplies to allow for variations in production and in his daily needs for fluid processing. Production of milk varies seasonally and, accordingly, producers furnishing a sufficient supply for the low production season will produce more than an adequate supply in high production months. Handlers' milk requirements may vary both daily and seasonally chiefly because fluid milk packaging may not be carried on all days of the week and because cows' production varies.

A cooperative association proposed that the quantity of milk diverted should not exceed 50 percent in the months of April through August, or 30 percent in the months of September through March, of the producer milk received at pool distributing plants. The proposal would apply equally to milk diverted by a proprietary handler or a cooperative association. Also, diverted milk would be priced at the location of the plant to which diverted.

No testimony was received at the hearing in opposition to providing some limit on the proportion of producer milk that may be diverted.

The order now provides for the unlimited diversion of milk from pool plants to nonpool plants. Nevertheless, because supply plants, with manufacturing facilities, that are located in the marketing area were pooled on the basis of their location there, the market has not relied heavily on diversions to nonpool plants as a means of disposing of reserve supplies. Proponent anticipates that for the future such diversions may be made more extensively, and the provisions should be revised in line with changes in the market's supply and disposal needs and changes adopted in the basis for pooling plants.

Proponent sells milk to handlers regulated by the order. Some of the handlers buy their full supply from the association, while other handlers call on the association only to supplement their own farm supplies of producer milk. During certain days of the week, months of the year, or at times when they might obtain bids to supply school or government contracts, handlers may call upon the reserve supplies of milk handled by the association. As previously indicated in Issue No. 1, the supply system for the market centers on the movement of such milk directly from farms to distributing plants.

For the 12 months through October 1972, about 42 percent of the producer milk of the market was used in Class I.[1] Consequently, a substantial part of the total supply for the market normally must be utilized for manufacturing. It is anticipated that with the adoption of the pool plant standards proposed herein under Issue No. 1, the pool supply plants now associated with the market would become nonpool plants, but milk received at such plants could be pooled under the rules for diversion. Accordingly, disposition of the reserve supply for the market can be accomplished readily by diversion from pool distributing plants to nonpool manufacturing plants. The provisions provided herein therefore will accommodate such disposition for the future and assure continued pool status for milk of producers who regularly supply the fluid milk needs of the market.

The provisions for the diversion of reserve milk from pool distributing plants are made somewhat more liberal than proponent's proposal because its proposal was based on the anticipation that most of the supply plants now pooled would continue to qualify as pool plants, and the incidence of diversion to nonpool plants would be somewhat less than under the provisions proposed herein.

To accomplish the above, the recommended decision proposed that the order provide that 70 percent of the Grade A receipts at a pool distributing plant could be diverted to nonpool plants during the months of September through April. In exceptions, however, two cooperative associations and two proprietary handlers serving the market expressed apprehension that providing a diversion factor of 70 percent during the entire period of September through April might not always accommodate at all times the diversion needs of individual plants. While one pool distributing plant might need to divert about 75 percent of its producer receipts during the months of February through April, another such plant might need to utilize the full 80 percent factor provided herein to accommodate necessary diversion.

One cooperative association proposed that the factor be 75 percent for the months of October through March. Another association and a proprietary handler proposed that the factor be 80 percent during the months of September through April. The second proprietary handler proposed that the factor be 80 percent for the months of September through February.

After consideration of the exceptions and further examination of the evidence in the record, it is found that the smallest need for diversion will be during the months of September through January. In these months the supply of producer milk for the market is lowest in relation to Class I sales.

Milk supplies in relation to Class I sales increase seasonally during the months of February through April. A diversion factor of 80 percent during these months should accommodate exceptors' anticipated need for diversion on an individual plant basis.

Diversion of milk from pool supply plants would be provided for at a somewhat lower rate than from pool distributing plants. This is appropriate because, as previously indicated, the supply system for the market is such that milk, to meet the fluid needs of the market, moves predominantly from producers' farms direct to pool distributing plants. Consequently, the greatest incidence of diversion will be from pool distributing plants. However, in the event that a supply plant serves the market, it may have need for the privilege of diverting milk also. A supply plant that ships a portion (at least 50 percent) of its receipts from dairy farmers may need to divert milk to a nonpool manufacturing plant particularly if it has no manufacturing facilities of its own.

To provide that no milk may be diverted from a supply plant would require the milk of producers who regularly ship to a supply plant without manufacturing facilities to move through such plant for transshipment either to pool distributing plants or to nonpool manufacturing plants. The supply plant could not avail itself of the efficiencies associated with diversions directly from producer farms to manufacturing plants when the milk is not needed at pool distributing plants.

The supply plant pooling requirements provided herein insure that to be pooled such a plant must have a meaningful association with the market during months when milk to supply fluid needs is most needed. Also, it is provided that a supply plant that qualifies during the months of relatively short supply (September through February) may pool automatically during the remaining months of relatively heavy production.

The possibility exists, however, that any supply plant that may be associated with the market in the future might, unless limits were provided, add unneeded supplies of milk to the pool through the diversion provisions. This would dissipate, unnecessarily, the returns to all producers.

The addition of such milk to the pool by this means would be in sharp contrast to the anticipated and necessary diversion of milk from pool distributing plants as the chief means of disposing of the reserve supplies of milk already associated with the market. The minimum shipping requirement in the fall months of lowest seasonal production is 50 percent of the supply plant's receipts. This is a reasonable minimum, since to be eligible for pooling the plant should have a greater association of its supply to fulfill the fluid needs of the market than to fulfill the fluid needs of other markets. Obviously, if the plant ships this minimum to the market it will not have a need to divert more than 50 percent of its receipts in such fall months. Although lesser proportions of milk receipts are required to be shipped for initial pool qualification in other months, the limit of 50 percent of receipts on diversions in all months will reduce the incentive to add milk to the pool by means of diversion during months when the need for such milk in the market diminishes seasonally.

The limits provided herein will promote orderly marketing by assuring that only milk of producers regularly supplying the market may share in the proceeds from Class I sales. At the same time, the provisions will permit flexibility

[1] Official notice is taken of the "Market Information Bulletin" for the 12 months ending November 1972 issued by the Market Administrator.

needed to handle efficiently milk not needed for fluid use.

Diversion to a commercial food processing establishment located in Pacific County, Wash., is provided for herein, in addition to diversion generally to nonpool plants, to accommodate a special marketing situation in the Puget Sound market.

A firm at South Bend, Wash. (Pacific County) operates an oyster processing plant that manufactures, among other oyster food products, an oyster stew. This plant uses substantial quantities of milk. With the closing of the pool plant at Chehalis, Wash., the nearest pool plants with available supplies of milk are in the Seattle-Tacoma-Olympia area, a considerable distance from South Bend (up to 135 miles). There are a number of milk producers whose farms are within 5 miles of the South Bend oyster plant. The company is equipped to receive milk directly from producers when it is not needed at pool plants for fluid use. It is provided herein that diversions may be made to the oyster processing plant on the same basis as diversions are made to nonpool plants.

Such diversion should be limited to this commercial food processor in Pacific County, Wash. There are other commercial food processors in the marketing area, and presumably outside the marketing area. Unlike the oyster plant, however, their requirements for milk normally are supplied from a plant at which some processing of the milk is done first, such as pasteurizing or standardizing. The oyster plant represents a limited market for milk delivered directly from the farm.

It will be economical to divert to the oyster plant directly from the nearby farms. Otherwise the milk would have to be hauled up to 135 miles to a pool plant and then hauled back if such producers are to continue to supply the oyster plant, a desired outlet, with milk. It would not be feasible for the producers in the vicinity of the plant to supply the plant directly, without affiliation with a pool plant as producers, because the demand for the milk is somewhat seasonal, and the producers would risk forfeiting their Class I bases if direct shipment were undertaken.

It is concluded that the diversion of milk to the commercial food processing plant in Pacific County, Wash., under the same conditions as diversion of milk to nonpool plants, will promote the orderly marketing of milk in the area.

The order also should continue to provide that for purposes of pricing only, milk diverted from a pool plant to a nonpool plant, or to such commercial food processing establishment, either for the account of a handler as the operator of a pool plant or for the account of a cooperative association in its capacity as a handler, shall be treated as a receipt at the location to which diverted.

If diverted milk is priced at the plant from which diverted, there is an incentive to associate distant milk with local plants in the market even though such milk is not needed for fluid use, is not a part of the market's regular supply, and is intended for manufacturing uses. If dairy farmers relatively distant from the market have their milk diverted to a nonpool plant near their farms and receive a uniform price based on the location of a pool plant in the marketing area, such farmers are compensated as if their milk had incurred the expense of delivery all the way to the market center. There is no reason why milk diverted from a pool plant to a nonpool plant at any particular location should draw a higher return from the market pool than milk received at a pool plant at the same location.

3. *Location adjustments.* Location adjustments (the amounts by which the Class I, Class II, and base prices are adjusted according to the location of the plant where milk is received from producers) should be revised to reflect changed marketing conditions in the Puget Sound marketing area.

Base milk location adjustments are the same as Class I adjustments, while Class II location adjustments are one-half of the rates applicable to Class I milk.

Currently, the marketing area is divided into four districts for the purpose of applying location adjustments, with certain districts also containing other counties outside the marketing area. District 1 includes King, Pierce (that portion in the marketing area), and Snohomish Counties. District 2 includes Thurston, Skagit, and Island Counties. District 3 is defined as that part of the marketing area in Grays Harbor, Lewis, Pacific, and Whatcom Counties. District 4 is San Juan County.

There are no location adjustments presently applicable to milk received at plants located in District 1, or Kitsap County. The Class I price at plants located in District 2 or Mason County is adjusted so as to be 15 cents per hundredweight less than the announced order price in District 1. In District 3, the portion of Lewis and Pacific Counties outside the marketing area, and Kittitas County, the announced Class I price is reduced 20 cents per hundredweight. District 4 and all other locations outside the marketing area have a Class I location adjustment of 40 cents per hundredweight.

Producer proponents originally proposed that the 40-cent per hundredweight Class I location adjustment apply to District 4 and Clallam and Jefferson Counties. For plants outside the marketing area and not subject to any of the above rates, the association proposed that location adjustments on Class I milk be set at 20 cents per hundredweight, plus 1.5 cents for each 10 miles or fraction thereof that the plant is located beyond 100 miles from the County-City Building in Seattle. Proposed adjustment rates on Class II milk, although one-half of the above rate, would not exceed 25 cents per hundredweight.

At the hearing, producers modified their first proposal. The proposed rate on Class I milk for locations outside the marketing area not subject to any of the designated district rates was changed to 20 cents, plus 2 cents for each 10 miles or fraction thereof beyond 100 miles from Seattle. The Class I adjustments for Districts 2 and 3 were changed from the current 15 and 20 cents, to 10 and 15 cents, respectively. The association further proposed that Skagit and Island Counties be removed from District 2 and placed in District 3; and that Kittitas County be subject to location adjustments applicable generally to locations outside the marketing area, rather than to the District 3 rate currently applicable in Kittitas County.

Proponent stated that the proposal to reduce the Class I price adjustment for a plant located in Whatcom County from 20 cents to 15 cents is intended mainly to facilitate the movement of milk from various plants in the milkshed to its supply plant at Lynden (Whatcom County) when necessary for surplus disposal. The closing of the association's Mount Vernon pool supply plant in Skagit County, which currently is in District 2, was given as a factor contributing to the surplus disposal problem. Producer milk formerly shipped to the proponent association's Mount Vernon plant is now being delivered to the Lynden plant, which currently carries a 5-cent per hundredweight greater Class I location adjustment than the rate applicable at Mount Vernon. Proponent contends that it is improper for producers whose milk at times is moved away from its customary pool plant outlet to Lynden to bear a 5-cent reduction in the base price as well as to incur the additional cost of movement itself.

In addition to reducing the location adjustment in Whatcom County, the effect of producers' proposal would be to reduce Class I location adjustments by 5 cents per hundredweight in Pacific, Thurston, Lewis, and Mason Counties. Currently, there are no pool plants in either Lewis or Mason Counties. At the time of the hearing there were two pool plants in Pacific County to which a 15-cent per hundredweight Class I location adjustment, rather than the current 20-cent adjustment, would apply. The Class I location adjustment at a plant located in Thurston County would be reduced from 15 cents to 10 cents.

There is only one other pool plant in the marketing area to which a location adjustment is applicable currently. The Class I location adjustment of 15 cents per hundredweight at such plant (in Skagit County) would not be changed by producer's proposal.

There are no pool plants now located outside the marketing area. Proponent testified that in the event that out-of-area plants should be pooled in the future, location adjustments for all outside locations should be based on mileage from Seattle, in lieu of the "flat" location adjustment of 40 cents currently provided in the order.

No location adjustments should apply to plants located in or near principal cities of the marketing area, which constitute the points of greatest milk processing and consumption. This would include plants in King, Pierce, and Snohomish Counties and Kitsap County, which is located outside the marketing

area but adjacent to King County. As above indicated, no location adjustments presently are applicable to plants located in these counties and producers proposed no modifications for such plants.

All plants located outside the no location adjustment zone should have adjustments that reasonably relate to the cost of moving milk from plants to the central cities in the marketing area. There is no marketing reason for fluid milk products to be supplied regularly through supply plants located within the marketing area. The milk needs at fluid processing plants in the central cities are supplied by milk direct shipped from producers' farms to bottling plants. Individual producers pay the cost of hauling milk to such plants and receive a price that allows for such delivery as compared to delivery to outlying plants in the milkshed. However, when fluid milk is shipped from supply plants, location adjustments should tend to reflect the difference in the value of milk based on plant of receipt from the farm in relation to its value where it is needed for fluid use. Prices adjusted for plant location promote the uniform pricing plan by compensating the plant operator for his cost incurred in moving milk from the outlying plant location to the market center.

Producers' request to reduce location adjustments in Districts 2 and 3 should be adopted. Such reduction will more nearly reflect current rates for efficient hauling of bulk milk. However, Island and Skagit Counties should not be removed from District 2 and placed in District 3. The Class I location adjustment in both these counties currently is 5 cents per hundredweight less than the adjustment in Whatcom County. This difference should be maintained to reflect the relative distances of the plants located in each county to the central market. Therefore, Island and Skagit Counties should remain in District 2 and carry a 10-cent per hundredweight Class I location adjustment. For the previously stated reasons, the Class I location adjustments applicable to Districts 2 and 3 should be changed to 10 and 15 cents per hundredweight, respectively.

As indicated previously, proponent testified about not reducing the base price payable to their producers whose milk is moved from Skagit County to the Lynden plant. They did not indicate, however, that this could not be achieved through the reblending of proceeds to their producers.

Class I location adjustments applicable in District 4 and Clallam and Jefferson Counties should be maintained at the current rate of 40 cents per hundredweight due to the presence of Puget Sound between such counties and the market center. This necessitates a longer haul by road or relatively expensive ferrying.

Location adjustments by Districts, based primarily on county boundaries, are continued herein as a customary method of providing for location pricing within the marketing area. The rates adopted for the several districts, most of which territory is in the marketing area, are reasonably reflective, however, of the cost that would be involved in moving milk into the marketing center from the few outlying supply plants remaining in the outlying counties of the marketing area. Location adjustments for locations outside the marketing area that are not subject to any of the in-area rates should be computed on the basis of mileage from Seattle.

In the past it has not been necessary to compute adjustments on such basis because production for the market has been centered west of the Cascade Mountains. Very little milk came into the area from east of the mountains and that shipped in came from no farther than the Columbia River Basin area. The 40-cent location adjustment provided by the order served adequately for milk moving from such area.

The mobility of milk has increased, however, to the point that some provision should be made now for the eventuality that milk might move into the marketing area from plants located at considerable distances.

As previously indicated, producers proposed that such location adjustments be applied to out-of-area plants at a rate of 20 cents, plus 2 cents per 10 miles beyond 100 miles from Seattle. In supporting 2 cents per 10 miles a representative of the association presented a schedule of shipping rates filed with the Washington Utilities and Transportation Commission (WUTC). These rates were filed by a common carrier and apply where specific point-to-point rates are not maintained. The exhibit indicates a charge of 28 cents per hundredweight for shipping 48,000 pounds of milk 105 miles. This charge is further increased by 2 cents per hundredweight for each additional 10 miles.

Such rates filed with the WUTC are not negotiated rates for standard or regular hauls, but represent a basis for the hauler's charge when a specific rate is not established between certain points. The association has negotiated lesser hauling rates than those filed with WUTC. An association charge of 20.33 cents per hundredweight applies on milk shipped from Lynden to Seattle (106 miles) compared to the filed charge of 28 cents for 105 miles.

A hauling charge of 20.33 cents from Lynden to Seattle converts to a rate of 1.92 cents per hundredweight per 10 miles. However, the association's own proposed location adjustment under the order for its Lynden plant in Whatcom County is 15 cents, or 1.42 cents per hundredweight per 10 miles. This proceeding provides no basis for presuming that the rate of adjustment applicable to locations outside the marketing area should be significantly greater than those found to be reasonable within the area.

Therefore, a rate of 1.5 cents per 10 miles, as proponents originally proposed, provides an equitable allowance for plants located outside the marketing area relative to allowances for plants within the marketing area. Furthermore, a rate of 1.5 cents per 10 miles will be consistent with location adjustment rates under other Federal orders, including the adjacent Oregon-Washington order.

While it was not an issue at the hearing, it should be noted that the base milk price to producers would continue to be reduced, at the same rate as specified for Class I milk, for plant location where the milk is received from the farmer.

Producers proposed that the Class II location adjustment be set at one-half of the Class I adjustment, but not to exceed 25 cents per hundredweight. No evidence was presented, however, to indicate a need for increasing the maximum Class II location adjustment from 20 cents to 25 cents. The Class II location adjustments, therefore, should continue to be set at one-half of the rate specified for Class I milk, but not to exceed the 20-cent per hundredweight maximum as currently provided in the order.

Location adjustments on excess milk. The order should be amended to delete the location adjustments that are added to the uniform price for excess milk at pool plants in Districts 1, 2, and 3.

The amount of such addition to the excess price varies slightly from month to month according to the volume of producer milk utilized in Class II at pool plants in such districts and the volume of excess milk received at the plants. In the recent past the adjustments have ranged between 9–10 cents per hundredweight for excess milk received at pool plants in District 1; 3–4 cents in District 2; and 1–2 cents in District 3. There is no adjustment added to the uniform price for excess milk at pool plants in District 4.

A cooperative association proposed that such location adjustments be eliminated to improve the operation of the Class I base plan. Moneys now paid out on excess milk would accrue to deliveries of base milk by all producers. In proponent's view, this would help to provide greater economic incentive under the Class I base plan to encourage deliveries of base milk and to discourage the production of excess milk.

The original purpose of such adjustments was to compensate producers for the delivery of excess milk (the order provided for a base-excess plan) to District 1 where it was used for ice cream and cottage cheese. Prior to the order, handlers had paid about 25 cents more per hundredweight for milk so used than for milk used in butter, cheese and nonfat dry milk. Since about 90 percent of the milk delivered was base milk, the higher price charged handlers in District 1 for milk used in cottage cheese and ice cream resulted in a corresponding payment of 25 cents a hundredweight to producers for delivery of excess milk for such uses.

When the order was amended effective May 1, 1968, to provide a separate class (Class II) for milk used in cottage cheese and ice cream, the Class II differential was set at 25 cents per hundredweight

over the Class III price for all marketing area plants. By then cottage cheese and ice cream manufacture had developed at plants outside District 1. The 25 cent payment to producers on excess milk likewise was extended to deliveries made to pool distributing plants in Districts 2 and 3. However, since the total supply of milk available to the market had increased, the rate of payment to producers on excess milk decreased from 25 cents per hundredweight to the lower rates described above.

There is no reason under current marketing conditions to maintain such incentive to encourage the delivery of excess milk for use in Class II. There was no indication in the record that the supply of milk for Class II will be jeopardized if the price adjustments on excess milk are removed. In fact, continuing the adjustment for the future could create an undue incentive for the production and delivery of excess milk.

Deleting the adjustments on excess milk will not reduce the amount of money in the pool, but will redirect it to increase the price of base milk, thereby increasing the returns of each producer for the base milk he supplied to meet the requirements of pool distributing plants. For 1971, the amount added to the base price would have been about 6 cents per hundredweight.

It is concluded that the location adjustments on excess milk should be deleted to insure that producer milk in excess of the fluid milk needs of the market should reflect only the value of the lowest use classification. Each producer then will have greater incentive to adjust his production to delivery of base milk as the Class I base plan contemplates.

Location adjustments on other source milk. The order should be amended to provide that the Class I price for other source milk, when adjusted for location, shall not be less than the Class III price.

A pool plant operator's obligation to the producer-settlement fund may include a payment on receipts from unregulated sources which are allocated to Class I use. The order currently provides that the weighted average price, when adjusted for location, shall not be less than the Class III price. No such limitation is applied to the Class I price.

A similar limitation on adjustments to the Class I price should be provided. Otherwise, a handler could receive payment from the producer-settlement fund on such receipts. This could occur whenever the location adjustment at the plant exceeded the difference between the Class I and Class III prices. Producers under the order, in effect, would be providing the handler with a credit that reduced his cost for other source milk below its value for manufacturing uses. A handler should not be provided this incentive to import milk from distant sources at the expense of local producers.

4. *Changing the butterfat differentials.* The order should be amended to provide for a single butterfat differential for adjusting order prices to the butterfat content of milk being priced. The differential for the current month should be the Chicago butter price for such month multiplied by a factor of 0.115, rounded to the nearest one-tenth cent. Such differential should be announced on the fifth day of the following month.

Currently, the order provides for three butterfat differentials. The Class I butterfat differential for handlers is determined by multiplying the Chicago butter price for the preceding month by 0.125, while the handler Class II–III differentials are determined by multiplying the butter price for the current month by 0.120. The butterfat differential applicable in adjusting payments to producers is the average of the Class I and Class II–III differentials weighted in accordance with the proportion of butterfat in producer milk in each class.

Presently, the Class I and Class II–III differentials are announced on the fifth day of the month. The Class I differential applies to the month in which announced, while the Class II–III differentials apply to the preceding month. The producer butterfat differential is announced on the 13th day of each month and applies to milk received during the preceding month.

A cooperative association serving the market proposed that the butterfat differentials for each class be reduced from present levels to 11.5 percent of the Chicago 92-score butter price. Proponent contended that the prices now assigned to differential butterfat in the various classes do not reflect the current market values of this component of milk in its several uses.

The proposal was opposed by Jersey and Guernsey breed associations in the market. The principal reasons cited by the two breed associations in opposition to the reduction of butterfat differentials were that lower butterfat differentials would (1) place the breed associations at a competitive disadvantage, and (2) result in a substantial loss of income to producers of high test milk. Reduced butterfat differentials, it was contended, would result in decreased production of butterfat and solids-not-fat, which would have a deleterious effect on the nutritional value of milk. No opposition to the proposal was presented by other groups in attendance at the hearing.

Under the Puget Sound order the average butterfat test of Class I milk has been declining. In 1966 it was 3.53 percent and in 1971 it was 3.25 percent, a drop of 7.9 percent. In contrast, during 1971, when the butterfat in producer milk classified in Class I averaged 3.25 percent, producer deliveries averaged 3.79 percent butterfat. The increasing demand for Class I products of lower butterfat content can be expected to result in a continuing decline in the average butterfat of Class I sales under the order.

The Puget Sound experience follows closely the declining national trend in the proportion of butterfat in Class I sales as shown by the average test of fluid milk products sold in the Federal order marketing areas. In 1966, the average butterfat test in 66 Federal order markets for such sales was 3.5 percent.[2] This percentage has declined from year to year, and in 1971 the comparable average butterfat test was 3.21 percent. On a percentage basis, the average butterfat content in these fluid milk products declined 9 percent from 1966 to 1971.

The demand for butterfat has declined not only as indicated above but also in products included in Class II and Class III. This is indicated by the support prices established in recent years which have lowered the support purchase prices for butter in relation to those for nonfat dry milk.

It is concluded that class butterfat differentials should be reduced in recognition of the declining demand for butterfat in the several class uses.

The combined effect of reducing the Class I and Class II–III butterfat differential factors would be to decrease slightly the average base milk price at test. If the reduced factors had been in effect during 1971, the average base milk price at 3.5 percent butterfat test would have been decreased by about 1.4 cents per hundredweight. The chief benefit from this change is that the associations that dispose of a large portion of the reserve milk of the market may do so more competitively than at present.

Proponent requested also that the Class I butterfat differential be based on the Chicago butter price for the second preceding month and announced in conjunction with the Class I price. Proponent testified that it is not possible for handlers to establish accurately their product costs when the butterfat differential is announced on the fifth day of the month that it takes effect and 30 days after the announcement of the Class I price.

As indicated above, only the Class I butterfat differential currently is based on the butter price for the preceding month. Because monthly changes in the Chicago butter price normally are relatively small, it is not necessary to utilize butter quotations for Class I different from those utilized to price Class II–Class III butterfat.

The two associations that opposed any reduction in butterfat differentials at the hearing stated in exceptions, "With support prices for butter drastically reduced (by the March 1973 price support action) and to an extent that was unthinkable at the time of the hearing, the Jersey/Guernsey cooperatives cannot now oppose proposal 1 because it would be unfair to require handlers to pay for butterfat at a level excess of the 0.115 level."

They proposed at the hearing, and repeated in exceptions, a butterfat solids-not-fat (SNF) formula to derive a differential for adjusting the uniform price to producers, for butterfat content above or below 3.5 percent. Under the formula, separate values would be computed for the SNF and butterfat components of

[2] Official notice is taken of the January 1972 Summary of Federal Milk Order Statistics (issued by the Dairy Division, AMS, USDA), p. 4.

producer milk. The values then would be combined to provide the differential. The associations' formula, which utilizes a change of 0.04 percent SNF for each 0.1 percent change of butterfat, would have resulted in an average producer "butterfat-SNF differential" of 8.7 cents during 1971, compared to an actual average producer butterfat differential of 8.32 cents.

In exceptions to the recommended decision, an exceptor requested that official notice be taken of a recommended decision for the Upper Florida milk order issued by the Department on August 31, 1966 at 31 FR 11465. The request was in support of exceptor's contention that a part of the increased returns obtained through the butterfat differential on milk of high butterfat content should be considered as representing compensation for the greater solids-not-fat content of such milk. In this connection, producers who produce milk of higher than 3.5 percent butterfat will continue to be compensated for such higher butterfat and solids-not-fat content under the provisions adopted herein. The chief difference between exceptor's point of view and the findings contained herein concerns the level at which the producer butterfat differential should be established by the order. Since the official notice requested does not relate to such level, it is not germane to the issue considered herein. Accordingly, the request for official notice is denied.

Increasing the payment for butterfat contained in producer milk as delivered to the handlers is in conflict with exceptor's own view that the handler butterfat differential should not be higher than 1.15 times the butter price. Any action to encourage greater production of butterfat in this market, in view of testimony that the values presently provided by the order are not recovered in marketing butterfat, would be contrary to the general trend in the Puget Sound market and in the United States for lower butterfat content in fluid milk products.

Exceptor requested also that official notice be taken of the support purchase prices for dairy products for the marketing year 1973–74, to illustrate, in his view, the adverse impact of lower butter prices on producers whose milk tests more than 3.5 percent butterfat content. The testimony and evidence in the record is that the prices producers receive for butterfat must be closely related to the values of butterfat in the marketplace. This is determined by what handlers can realize from the sale of products made from this component of milk. The provisions adopted herein for computing butterfat differentials represent a more appropriate basis than is now provided in the order for achieving such result. The method of computing such butterfat differential utilizes fluctuating butter prices. It is not dependent on a particular butter price, such as the current support price for butter. Accordingly, the request for official notice is denied.

The order establishes minimum marketwide prices to be paid all producers for milk of varying butterfat content. The order does not prohibit payment at higher than minimum prices. The terms of the order may not ignore that the prices producers are paid for butterfat must be closely related to its value in the marketplace. If milk of individual producers is such, however, that it contains components that make it more valuable than other milk, payment by the handler for the higher value is not prohibited by the order.

Since a single butterfat differential would be applicable, the order need provide only for a producer butterfat differential. No handler butterfat differentials applicable to class prices need be set forth as such. Nor is there any need for pooling butterfat values in each class since all butterfat in producer milk would be priced to handlers at the same level regardless of the class in which used. The proposed revised order attached hereto is drafted accordingly. The differential being the same for each class, as proposed herein, the provisions for weighting the values of butterfat by classes become unnecessary and are deleted.

5. *Classification—(a) Ending inventory.* Fluid milk products on hand in packaged form at the end of the month should be classified as Class I milk. Fluid milk products on hand at the end of the month in bulk form should be classified as Class III milk. At the present time all inventory on hand at the end of the month is classified as Class I milk.

This change was requested by a cooperative association serving the market, to improve the accounting plan for milk. Most of the packaged fluid milk products in inventory at the end of the month are used in the following month as Class I disposition. A substantial portion of bulk inventories may be used in Class III for manufacturing. The proposed change would eliminate reclassification charges on such inventories in the following month. The order would continue to provide a basis for including as Class I all of the packaged fluid milk products held by the handler at the end of the month whether in his processing plant or at other locations such as distributing points. Thus, the amendment would provide a method of pricing such fluid milk products in the month in which packaged by the handler.

Inventories of bulk fluid milk products on hand at the beginning of the first month in which this order becomes effective should be allocated to any available Class I use of the plant during the month. As ending inventory, this milk will have been assigned to the higher price-class in the month prior to this amendment. This will permit the changeover to be made without affecting either the handlers' costs or the producers' returns.

In exceptions, a cooperative association requested that special provisions be provided in the amended order to permit manufacturing plants that switch from pool status to nonpool status, on the effective date of the amendment, to obtain a price adjustment on inventory variations that occur during the final month of pool status. Such plants will have had inventory accounted for in Class I under the provisions of the present order, and, normally as a pool plant in the following month, would receive a price adjustment on any such inventory used in surplus utilization.

Where it can be demonstrated to the satisfaction of the market administrator that an inventory adjustment to reflect surplus utilization is warranted, it can be made during the final month of pool status for such plants under the present order provisions and administrative procedures applicable.

(b) *Products not specified in the order.* The order should be changed to provide that dairy products not specifically identified as Class II or Class III should be classified as Class I. At present, any such product that would be marketed would be classified as Class III milk. However, there are no unspecified products being classified at this time.

Other provisions of the order put the burden of proof on the handler to show that a product should not be in a higher classification. The change provided herein, as proposed by a cooperative association, will result in greater consistency with the order which provides also that all skim milk and butterfat shall be Class I unless the handler who first received such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise.

The proposal was opposed by a handler who stated that his firm might develop a flavored whipped cream. The order now provides that whipped cream is Class I. Adding a flavor such as strawberry or caramel at the processing plant rather than at a consumer's home should not affect this classification any more than adding chocolate flavoring to milk. The product should continue to be classified as Class I and should not be relegated to Class III solely by the addition of a flavor.

6. *Partial payments to producers.* The order should provide that all handlers be required to make partial payments to producers, or to cooperative associations that collect for their members, for producer milk delivered during the first 15 days of the month. Such payments to individual producers should be made by the 25th day of the month. Payments to cooperative associations should be made 2 days earlier. The rate of payment should be the Class III price for the preceding month, less any deductions authorized by the producer.

The order does not now provide for partial payments to producers. Handlers, however, follow the practice of issuing partial payments when requested to do so by producers. Final settlement for producer deliveries during the month is not required until about the middle of the following month.

When only a final settlement for producer milk is provided, payable by the 19th of the next month, the handler has the use of the money resulting from its sale for up to 50 days without any payment to the producer. The application of partial payments will reduce the period a producer must wait to receive some payment. Such partial payment still would be less than the full value of the milk by the amount of the difference between the price for the lowest use-class

and the uniform price. A more uniform basis of payment throughout the market will result.

The rate of partial payment should be the Class III price for the preceding month without further adjustment for butterfat content or location. The partial payments should be reduced by the amount of any proper deductions authorized by a producer. It is not unusual for a producer to have assignments or other deductions made against the payments for his milk. This provision will accommodate such circumstances and allow these deductions to be made from the partial as well as the final payments for milk.

A handler should be required to make partial payment only to a producer who has not discontinued delivery of milk to the handler as of the 15th of the month. This requirement will minimize the possibility of overpayments.

The order should provide that partial payments to a cooperative association collecting for producers for whom it markets milk be made on or before the 23d day of the month. This is provided so that such producers can receive such payments by the same time as producers receiving payment directly from handlers. Two days should be adequate for this purpose.

7. *Administrative provision* — (a) *Route disposition.* The definition should be changed to provide that packaged fluid milk products that are transferred to a pool distributing plant from another pool distributing plant, and classified as Class I, shall be considered as route disposition from the transferor-plant, rather than from the transferee-plant, for the single purpose of determining its qualification as a pool distributing plant. The transferor-plant shall be assigned in-area sales, but not in excess of the in-area sales of the transferee.

This change will mitigate possible removal from pooling of a plant in the marketing area from which milk is distributed on routes but which is now pooled as a supply plant on the basis of its location in the marketing area.

(b) *Handler statements to producers.* The order now provides that each handler furnish each producer a supporting statement that includes the Class I, Class II, and Class III prices for milk of 3.5 percent butterfat content and the marketwide percentage of producer milk utilized in each class during the month. This provision makes for repetitious reporting requirements. Currently, the market administrator provides and mails to each producer the information specified above. Also, cooperative associations provide this information to each member producer in their house bulletins. Deleting the report required of handlers will eliminate a superfluous requirement on handlers.

(c) *Chicago 92-score butter price.* The definition "Chicago butter price" now provided in the order is based on 93-score butter, with 92-score prices to be used only if there are no reported prices for 93-score butter.

There are very few quotations for 93-score butter any longer, and the substitution of the 92-score butter quotation for computing the Puget Sound order formula prices has been required frequently in the recent past. When there has been a quotation for 93-score butter, it has been only slightly higher than the quotation for 92-score butter.

Other milk orders, and particularly those in adjacent markets, use the 92-score quotation without reference to the 93-score butter price. Adoption of the 92-score butter price, where applicable in the order, will make the Puget Sound order consistent with adjacent markets by eliminating for the future the slight differences in values for computing price formulas that have prevailed in the past. A definition of "Chicago butter price" is deemed unnecessary and therefore is removed to simplify order language.

(d) *Substitution of "regulatory agency" for "health authority."* "Regulatory agency" should be substituted for "health authority" wherever it appears in those sections of the order defining "producer," "distributing plant," "supply plant," and "pool plant." Frequently, the regulatory agency approving milk for fluid consumption is not termed a health authority. Accordingly, use of "regulatory agency" provides a more useful description of such agencies having jurisdiction in this field.

(e) *Plant definition.* As indicated previously the performance standards for pooling supply plants would be changed by provisions included herein. Because of the difference in marketing practices and functions between pool distributing plants and supply plants, separate performance standards have been provided in the order. It will facilitate reference throughout the order if definitions of a distributing plant and a supply plant are provided in the order. The term "distributing plant" would cover a plant in which a fluid milk product approved by a duly constituted regulatory agency for fluid consumption is processed or packaged and that has route disposition in the marketing area during the month. The term "supply plant" would include any plant from which a fluid milk product approved by a duly constituted regulatory agency for fluid consumption, or filled milk, is transferred to a pool distributing plant during the month.

(f) *Fluid milk product.* The definition of "fluid milk product" should be clarified to include flavored cream. At times, in the past, handlers have added flavoring ingredients or sugar to cream. This has raised the question of whether such altered cream should be considered a fluid milk product. At the present time, no handler produces flavored cream. The change proposed herein would not affect the classification of any products currently produced in the market. Further, there is no evidence that flavored cream has any use other than a fluid milk product use (as for whipping) and no objection was raised at the hearing concerning this change.

The definition now includes a provision concerning products that are reconstituted or fortified with additional nonfat milk solids. This provision should be repositioned in the introductory paragraph of the definition to make it clear that it applies to all fluid milk products included in the definition. This has been the intent of the provision and the practice in its administration.

In the last paragraph of the fluid milk product definition there is a reference to "condensed milk, and skim milk (plain or sweetened)." The present language, however, does not indicate clearly whether it is meant to refer to condensed milk, either plain or sweetened. The change proposed herein would make it clear that condensed milk (plain or sweetened) and condensed skim milk (plain or sweetened) are not to be considered as fluid milk products. The change will clarify the provision to bring it in line with the present administrative practice.

(g) *Authority for additional information.* The order should be amended to provide for such additional reports as the market administrator may need to administer the order properly. For example, the change would authorize the administrator to request, under the payroll reports provision, information on the daily deliveries of producers for use in connection with the Class I base plan. The change, which was not opposed at the hearing, will facilitate administration of the order.

(h) *Other order packaged fluid milk not suitable for fluid disposition.* The provisions for classifying producer milk should be amended to provide that packaged fluid milk products for route disposition shall be accounted for as Class I milk when received at a pool plant from an other order plant. Packaged fluid milk products that are received at a pool plant from an other order plant for "salvage" use should be accounted for in Class III as a fluid milk product not qualified for disposition to consumers in fluid form.

The need for this change stems from a particular situation involving a Puget Sound handler who also has a plant under another order. Fluid milk products packaged at its Puget Sound plant are moved to the other order plant. They are intended for fluid consumption and are used by the other order plant to supply consumers with products and containers which are not packaged in the receiving plant. Some of these products are returned from routes and are unsuitable for further disposition in fluid form. They are then returned to the Puget Sound plant in their original containers for salvage.

The other order plant of the Puget Sound handler packages other fluid milk products in containers of varying size for disposition on routes in that marketing area. Route returns of these products also are moved in their original packages to the Puget Sound plant for salvage.

Fluid milk products received from an other order plant, even though unsuitable for fluid consumption in the Puget Sound marketing area, have been accounted for in Class I at the Puget Sound pool plant as a receipt of packaged fluid

milk products (with an adjustment for shrinkage) from an other order plant.

The effect of this is to reduce Class I use for producer milk under the Puget Sound order even though the receipts from the other order plant have not been for route disposition in the Puget Sound area.

The change provided herein will insure that the Class I classification of packaged fluid milk products from an other order will apply only when such products are for route disposition and not for salvage in manufacturing.

(i) *Fluid milk products received from an unregulated supply plant or partially regulated distributing plant but already priced under a Federal order.* No pool charge should be made on fluid milk products received at a pool plant or a partially regulated distributing plant from an unregulated supply plant when it is determined that such fluid milk products have been priced as Class I under this or any other Federal order.

When an unregulated supply plant makes Class I purchases from a regulated plant under any order, the obligation to the order pool at the Class I price has been met, and there is no justification for any additional charge pursuant to the order. The Puget Sound order will continue to provide for payment to the producer-settlement fund at the difference between the Class I and uniform prices on any unpriced milk received from an unregulated supply plant and allocated to Class I at a pool plant.

The provisions prescribing the obligation of a partially regulated distributing plant should be changed also in this regard. When such plant's obligation is computed as though it were a pool plant, proper recognition must be given to any transfers from the plant to a regulated plant that already have been priced as Class I milk under another Federal order. Also, in computing such a plant's obligation on route disposition in the marketing area, recognition should be given to any receipt of milk at such plant from an unregulated plant if an equivalent amount of milk received at the latter plant already has been priced as Class I milk under another order.

(j) *Equivalent price.* The provision is revised herein to incorporate, as part of the revised format, a more appropriate equivalent price provision. The order now provides for such computation and the changes provided herein merely adopt language to achieve desired uniformity among orders. As provided herein, if a price or pricing constituent needed by the market administrator in administering the order is not available, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

The order now uses both "price quotation" and "price" to describe the formula pricing constituents and prices that must be available to the market administrator monthly in order for him to determine the class prices and the butterfat differential.

Although the various quotations now used in the order are specific price quotations, a different price constituent (e.g., a price index) that is reflective of one or more price quotations might under some circumstances be instituted in the order as a basis for determining class prices. Use of "price or pricing constituent" in the order language relating to use of equivalent prices will more appropriately express the intent of this provision of the order.

(k) *Format of order provisions.* The format provided herein is designed to provide a more logical positioning of provisions. The positioning of provisions within the order is the same as that recently incorporated in several Federal milk orders and proposed for a number of others. Such positioning is designed to achieve a uniform location of order provisions among all orders and to improve the arrangement of provisions therein.

(l) *Miscellaneous.* (1) The "producer milk" definition includes a reference to filled milk in the provision relating to diversion of milk from farms to nonpool plants. The reference is not appropriate at such point and should be deleted.

(2) The order should treat as other source milk, and provide for its allocation, the receipts at a pool plant during the month from a dairy farmer who also delivered milk to a nonpool plant (except by diversion) during the same month. In 1968, the order was amended to eliminate such milk as producer milk but did not provide for its allocation to Class III as other source milk.

(3) A provision of the order that allocates some "overage" to other source milk should be deleted. The quantity of overage that was so allocated in 1971 was very small and was valued at $1,000 for the year. Both quantity and value are expected to decline further as pool plants are decreasing receipts of other source milk. As provided herein, handlers would be charged for all "overage" instead of having some of it allocated to Class III as other source milk. The chief benefit from this change will be avoidance of the time and cost involved in making the computation now provided by the order. The change was not opposed at the hearing.

(4) In addition to its present application, the administrative assessment should apply to the route disposition of a partially regulated distributing plant that exceeds the Class I milk from pool plants and other order plants (but not used as an offset on any similar payment obligation under any other order).

This will carry out the objective stated earlier herein of charging an obligation on any route disposition from a partially regulated distributing plant that has not been priced as Class I milk under another Federal order. For disposition that has not been so priced it is appropriate to charge the operator of the partially regulated distributing plant the administrative assessment to cover the cost of administering the order provisions under which such handler incurs an obligation.

(5) In revising the pool plant and diversion provisions, previously discussed, the order language adopted herein recognizes that a cooperative association may, under the Capper-Volstead Act, market the milk of some producers who are not members of the association. Conforming changes are made in the "Handler," "Producer milk," and "Marketing services" provisions to reflect such transactions.

(6) Some of the handlers regulated by the order operate both pool distributing plants and pool supply plants. Upon adoption of the pool plant provisions provided herein the pool supply plants are expected to become nonpool plants. Under these circumstances, a problem in accounting for milk appropriately would occur when milk moves from such nonpool plant to a pool distributing plant.

The order language provided herein recognizes that when supply plants that are presently pooled acquire the status of nonpool plants, milk will be diverted to some of them for Class III use from pool distributing plants. Nevertheless, some milk may be transferred from such nonpool plants to pool distributing plants and used as Class I. The milk diverted is priced as Class III milk, but the milk that moved to the pool distributing plant would be accounted for as other source milk and the handler charged at the rate of the difference between the Class I and uniform prices. The order should provide that when milk is so transferred from the nonpool plant to the pool distributing plant for Class I use, and offsetting amount of milk transferred or diverted from such pool plant should be classified as Class I.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings, and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed

to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held; and

(d) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1125.85 of the aforesaid tentative marketing agreement and the order as proposed to be amended.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Ruling on Motion

In their exceptions, two producer associations submitted a motion to strike the entire recommended decision and hearing record, mainly on the ground that changed circumstances caused by the March 1973 modification of the price support levels for butterfat and nonfat dry milk render the hearing record and decision unreliable and nonprobative.

The decision covers seven material issues, and the hearing record contains testimony and evidence addressed to all such issues. It is clear from the exceptions that exceptor is concerned chiefly with the level of butterfat differentials. In requesting that the entire hearing record and recommended decision be struck, exceptor provided no reasons for doing so related to other issues.

In view of findings and conclusions cited in the main body of the decision concerning butterfat differentials and other issues, we find no basis for reopening the hearing at this time to reconsider such issues. Accordingly, the motion is denied.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an order amending the order regulating the handling of milk in the Puget Sound, Wash., marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the Federal Register. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Referendum Order To Determine Producer Approval; Determination of Representative Period; and Designation of Referendum Agent

It is hereby directed that a referendum be conducted and completed on or before the 30th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300 et seq.), to determine whether the issuance of the attached order as amended and as hereby proposed to be amended, regulating the handling of milk in the Puget Sound, Wash., marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during the representative period were engaged in the production of milk for sale within the aforesaid marketing area.

The representative period for the conduct of such referendum is hereby determined to be April 1973.

The agent of the Secretary to conduct such referendum is hereby designated to be Nicholas L. Keyock.

Signed at Washington, D.C., on May 31, 1973.

Clayton Yeutter,
Assistant Secretary.

Order[1] Amending the Order, Regulating the Handling of Milk in the Puget Sound, Wash., Marketing Area.

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.*—A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Puget Sound, Wash., marketing area.

The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held; and

(4) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his prorata share of such expense, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1125.85.

Order relative to handling.—It is therefore ordered that on and after the effective date hereof the handling of milk in the Puget Sound, Wash., marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, regulatory programs, on February 26, 1973, and published in the Federal Register on March 5, 1973 (38 FR 58882) shall be and are the terms of this order, amending the order, and are set forth in full herein subject to modifications in §§ 1125.3, 1125.7, 1125.9, 1125.13, 1125.40, 1125.42, and 1125.60.

PART 1125—MILK IN PUGET SOUND, WASHINGTON, MARKETING AREA

Subpart—Order Regulating Handling

General Provisions

Definitions

[1] This order shall not become effective unless and until the requirements of §900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Sec.
1125.6 Supply plant.
1125.7 Pool plant.
1125.8 Nonpool plant.
1125.9 Handler.
1125.10 Producer-handler.
1125.11 [Reserved]
1125.12 Producer.
1125.13 Producer milk.
1125.14 Other source milk.
1125.15 Fluid milk product.
1125.16 [Reserved]
1125.17 Filled milk.
1125.18 Cooperative association.

HANDLER REPORTS

1125.30 Reports of receipts and utilization.
1125.31 Payroll reports.
1125.32 Other reports.

CLASSIFICATION OF MILK

1125.40 Classes of utilization.
1125.41 Shrinkage.
1125.42 Classification of transfers and diversions.
1125.43 General classification rules.
1125.44 Classification of producer milk.
1125.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1125.50 Class prices.
1125.51 Basic formula price.
1125.52 Plant location adjustments for handlers.
1125.53 Announcement of class prices.
1125.54 Equivalent price.

UNIFORM PRICES

1125.60 Handler's value of milk for computing uniform prices.
1125.61 Computation of uniform prices for base and excess milk (including weighted average price).
1125.62 Announcement of uniform prices and butterfat differential.

PAYMENTS FOR MILK

1125.70 Producer-settlement fund.
1125.71 Payments to the producer-settlement fund.
1125.72 Payments from the producer-settlement fund.
1125.73 Payments to producers and to cooperative associations.
1125.74 Butterfat differential.
1125.75 Plant location adjustments for producers and on nonpool milk.
1125.76 Payments by handler operating a partially regulated distributing plant.
1125.77 Adjustment of accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1125.85 Assessment for order administration.
1125.86 Deduction for marketing services.

CLASS I BASE PLAN

1125.90 Production history base and Class I base.
1125.91 Base milk and excess milk.
1125.92 Computation of production history base for each producer.
1125.93 Computation of Class I base or base milk for each producer.
1125.94 Transfer of bases.
1125.95 Miscellaneous base rules.
1125.96 Hardship provisions.

AUTHORITY: The provisions of this part 1125 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

GENERAL PROVISIONS

§ 1125.1 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

§ 1125.2 Puget Sound, Wash., marketing area.

"Puget Sound, Wash., marketing area" (hereinafter called the "marketing area") means all territory geographically within the places listed below, including all territory wholly or partly therein occupied by government (municipal, State or Federal) reservations, facilities, installations or institutions:

WASHINGTON COUNTIES

Grays Harbor.
Island.
King.
Lewis (except the town of Vader).
Pacific (all territory north of township 11 N except Long Island and the North Beach Peninsula).
Pierce (except Fox, McNeil, and Anderson Islands and the peninsulas adjacent to Kitsap County).
San Juan.
Skagit.
Snohomish.
Thurston.
Whatcom.

"District 1" shall include that portion of the marketing area in King, Pierce, and Snohomish Counties. "District 2" shall include Thurston, Skagit, and Island Counties. "District 3" shall include that portion of the marketing area in Grays Harbor, Lewis, Pacific, and Whatcom Counties. "District 4" shall include San Juan County.

§ 1125.3 Route disposition.

"Route disposition" means any delivery of fluid milk products (including delivery at a plant, plant store, or eating place and delivery by a vendor or through a distribution point) except:

(a) A delivery to a plant: *Provided*, That packaged fluid milk products that are transferred to a pool distributing plant from another pool distributing plant, and classified as Class I under § 1125.42(a), shall be considered route disposition from the transferor-plant for the sole purpose of qualifying it as a pool distributing plant under § 1125.7(a), and the transferor-plant shall be assigned in-area dispositions but not in excess of the in-area dispositions of the transferee;

(b) A delivery in bulk to a commercial food processing establishment pursuant to § 1125.40(b)(3); or

(c) A delivery to a military or other ocean transport vessel leaving the marketing area of fluid milk products which originated at a plant located outside the marketing area and were not received or processed at any pool plant.

§ 1125.4 Plant.

"Plant" means the land, buildings, surroundings, facilities and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment, which is maintained and operated primarily for the receiving, handling and/or processing of milk or milk products (including filled milk). The term "plant" does not include:

(a) "Bulk reload points" which comprise the buildings, premises and facilities, including facilities for washing tanks, used primarily as a location at which milk is transferred from one farm pickup tank truck to another or to an over-the-road tank truck. Any reload point approved for such use by a duly constituted regulatory agency and located on the premises of a plant engaging in other operations shall constitute a part of the operations of such plant. However, milk which is reloaded at such a facility in transit to another plant at which it is processed, shall, for purposes of pricing only, be considered a receipt at the plant at which it is processed; or

(b) "Distribution points" which comprise the buildings, premises and storage facilities at which are stored, enroute in the course of disposition, fluid milk products that have been processed and packaged in consumer-type packages at a distributing plant. The following shall apply with respect to the operations of a distribution point:

(1) Operations of such a distribution point located on the premises of a nonpool plant or a pool supply plant shall not constitute a part of the operations of such plant; and

(2) Fluid milk products moved through a distribution point shall be classified on the basis of disposition from the distributing plant at which processed and packaged, unless the following conditions are met, in which case such products may be classified on the basis of disposition from such distribution point:

(i) Such distribution point is located west of the Cascade Mountain Range;

(ii) Fluid milk products are not received during the month at such distribution point from more than one plant; and

(iii) The handler operating such distributing plant notifies the market administrator of his intent to report regularly on the basis of disposition from such distribution point.

§ 1125.5 Distributing plant.

"Distributing plant" means a plant in which a fluid milk product approved by a duly constituted regulatory agency for fluid consumption, or filled milk, is processed or packaged and that has route disposition in the marketing area during the month.

§ 1125.6 Supply plant.

"Supply plant" means a plant from which a fluid milk product approved by a duly constituted regulatory agency for fluid consumption, or filled milk, is transferred during the month to a pool distributing plant.

§ 1125.7 Pool plant.

Except as provided in paragraph (c) of this section "pool plant" means a plant specified in paragraph (a) or (b) of this section. For the purpose of determining a plant's pool status under paragraphs (a), (b), or (c) of this section, the receipts and disposition of filled milk shall be excluded from such computation.

(a) A distributing plant with route disposition in the marketing area during the month that averages more than 110 pounds daily and is also not less than 10 percent of receipts of Grade A milk at such plant. For purposes of this paragraph, route disposition shall not include receipts from a transferor-plant pursuant to the proviso of § 1125.3(a); or

(b) A supply plant from which there is transferred to a pool distributing plant fluid milk products that represent not less than the following percentages of the total quantity of Grade A milk that is physically received at such plant directly from dairy farmers, or a cooperative association pursuant to § 1125.9(c), or diverted therefrom as producer milk pursuant to § 1125.13:

Months	Applicable percentage
January, February, or September	40
March through August	30
October through December	50

Any such plant that has transferred the applicable percentage of its receipts during the entire September through February period shall be a pool plant for the months of March through August immediately following. Any plant which otherwise meets the requirements of this paragraph may withdraw from pool supply plant status in the March through August period if the operator of the plant files with the market administrator prior to the first day of such month a written request for such withdrawal. The plant may regain pool status during such period only by meeting the applicable qualifying percentage.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which, the Secretary determines, there is a greater quantity of route disposition during the month in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its route disposition is made in such other marketing area unless, notwithstanding the provisions of this subparagraph, it is regulated under such other order;

(3) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition in such other marketing area and from which, the Secretary determines, there is a greater quantity of route disposition in this marketing area than in such other marketing area but which plant maintains pooling status for the month under such other Federal order; or

(4) A plant pursuant to paragraph (b) of this section which also meets the pool plant requirements of another Federal order and from which greater shipments are made during the month to plants regulated under such other order than are made to plants regulated under this order.

§ 1125.8 Nonpool plant.

"Nonpool plant" means any plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which during the month an average of more than 110 pounds daily of fluid milk products is disposed of as route disposition in the marketing area.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products are moved to a pool plant during the month.

§ 1125.9 Handler.

"Handler" means:

(a) The operator of one or more pool plants;

(b) Any cooperative association with respect to producer milk which it caused to be diverted for the account of such cooperative association from a pool plant of another handler to a nonpool plant, or pursuant to § 1125.40(b)(3);

(c) Any cooperative association with respect to producer milk received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association, if the cooperative association notified the market administrator and the operator of the pool plant to whom the milk is delivered, in writing prior to the first day of the month of delivery that it elects to be the handler for such milk;

(d) The operator of a partially regulated distributing plant;

(e) A producer-handler; and

(f) The operator of an other order plant from which route disposition is made in the marketing area during the month.

§ 1125.10 Producer-handler.

"Producer-handler" means a person who is engaged in the production of milk and also operates a plant from which during the month an average of more than 110 pounds daily of fluid milk products, except filled milk, is disposed of as route disposition within the marketing area and who has been so designated by the market administrator upon his determination that all of the requirements of this section have been met, and that none of the conditions therein for cancellation of such designation exists. All designations shall remain in effect until canceled pursuant to paragraph (c) of this section. The Department of Institutions, State of Washington, shall be a producer-handler exempt from the provisions of this section and §§ 1125.30 and 1125.32 with respect to milk of its own production and receipts from pool plants processed or received for consumption in State institutions and with respect to movements of milk to or from a pool plant.

(a) *Requirements for designation.* (1) The producer-handler has and exercises (in his capacity as a handler) complete and exclusive control over the operation and management of a plant at which he handles and processes milk received from his milk production resources and facilities (designated as such pursuant to paragraph (b)(1) of this section), the operation and management of which are under the complete and exclusive control of the producer-handler (in his capacity as a dairy farmer).

(2) The producer-handler neither receives at his designated milk production resources and facilities nor receives, handles, processes or distributes at or through any of his milk handling, processing or distributing resources and facilities (designated as such pursuant to paragraph (b)(2) of this section) milk products for reconstitution into fluid milk products, or fluid milk products derived from any source other than (i) his designated milk production resources and facilities, (ii) pool plants within the limitation specified in paragraph (c)(2) of this section, or (iii) nonfat milk solids which are used to fortify fluid milk products.

(3) The producer-handler is neither directly nor indirectly associated with the business control or management of, nor has a financial interest in, another handler's operation; nor is any other handler so associated with the producer-handler's operation.

(4) Designation of any person as a producer-handler following a cancellation of his prior designation shall be preceded by performance in accordance with paragraph (a) (1), (2), and (3) of this section for a period of 1 month.

(b) *Resources and facilities.* Designation of a person as a producer-handler shall include the determination and designation of the milk production, handling, processing and distributing resources and facilities, all of which shall be deemed to constitute an integrated operation, as follows:

(1) As milk production resources and facilities: All resources and facilities (milking herd(s), buildings housing such herd(s), and the land on which such buildings are located) used for the production of milk:

(i) Which are directly, indirectly or partially owned, operated or controlled by the producer-handler;

(ii) In which the producer-handler in any way has an interest including any contractual arrangement; and

(iii) Which are directly, indirectly or partially owned, operated or controlled by any partner or stockholder of the producer-handler: *Provided*, That for purposes of this subparagraph any such milk production resources and facilities which the producer-handler proves to the satisfaction of the market administrator do not constitute an actual or potential source of milk supply for the producer-handler's operation as such shall not be considered a part of his milk production resources and facilities; and

(2) As milk handling, processing and distributing resources and facilities: All resources and facilities (including store outlets) used for handling, processing and distributing within the marketing area any fluid milk product:

(i) Which are directly, indirectly or partially owned, operated or controlled by the producer-handler; or

(ii) In which the producer-handler in any way has an interest, including any contractual arrangement, or with respect to which the producer-handler directly or indirectly exercises any degree of management or control.

(c) *Cancellation.* The designation as a producer-handler shall be canceled under any of the conditions set forth in paragraph (c) (1) and (2) of this section or upon determination by the market administrator that any of the requirements of paragraph (a) (1), (2), and (3) of this section are not continuing to be met, such cancellation to be effective on the first day of the month following the month in which the requirements were not met, or the conditions for cancellation occurred.

(1) Milk from the designated milk production resources and facilities of the producer-handler is delivered in the name of another person as producer milk to another handler.

(2) The producer-handler handles fluid milk products derived from sources other than the designated milk production facilities and resources, with the exception of purchases from pool plants in the form of packaged fluid milk products, other than whole milk, which do not exceed a daily average during the month of 100 pounds.

(d) *Public announcement.* The market administrator shall publicly announce the name, plant location and farm location(s) of persons designated as producer-handlers, of those whose designations have been canceled, and the effective dates of producer-handler status or loss of producer-handler status for each. Such announcements shall be controlling with respect to the accounting at plants of other handlers for fluid milk products received from any producer-handler.

(e) *Burden of establishing and maintaining producer-handler status.* The burden rests upon the handler who is designated as a producer-handler to establish through records required pursuant to § 1000.5 of this chapter that the requirements set forth in paragraph (a) of this section have been and are continuing to be met, and that the conditions set forth in paragraph (c) of this section for cancellation of designation do not exist.

§ 1125.11 [Reserved]

§ 1125.12 Producer.

"Producer" means any person engaged in the production of milk of dairy cows:

(a) Who produces such milk in compliance with the Grade A inspection requirements of a duly constituted regulatory agency;

(b) Whose milk during the month is received at a pool plant or is diverted from a pool plant to a nonpool plant or a commercial food processing establishment pursuant to § 1125.13 unless such milk is received at a pool plant by diversion from an other order plant and retains status as producer milk under the order by which such plant is regulated;

(c) Who is not a producer-handler as defined in any order (including this part) issued pursuant to the Act;

(d) Who during the month has not disposed of as route disposition or to consumers at the farm an average of more than 110 pounds daily of fluid milk products; and

(e) Whose milk during the month was not received at a nonpool plant or a commercial food processing establishment except by diversion from a pool plant pursuant to § 1125.13.

§ 1125.13 Producer milk.

"Producer milk" or "milk received from producers" means skim milk and butterfat in milk produced by producers which is received for the account of a handler as follows:

(a) With respect to receipts at a pool plant, producer milk shall include:

(1) Milk received at such plant directly from producers;

(2) Milk diverted from such pool plant to a nonpool plant or pursuant to § 1125.40(b)(3) for the account of the operator of the pool plant, subject to the conditions set forth in paragraph (c) of this section; and

(3) Milk received at such pool plant from a cooperative association in its capacity as a handler pursuant to § 1125.9(c), for all purposes other than those specified in paragraph (b)(2)(i) of this section;

(b) With respect to milk for which a cooperative association is a handler in a capacity other than as the operator of a pool plant, producer milk shall include:

(1) Milk diverted from the pool plant of another handler to a nonpool plant or pursuant to § 1125.40(b)(3) for the account of the cooperative association, subject to the conditions set forth in paragraph (c) of this section; and

(2) Milk for which the cooperative association is a handler pursuant to § 1125.9(c) to the following extent:

(i) For purposes of reporting pursuant to §§ 1125.30(c) and 1125.31(a) and making payments to producers pursuant to § 1125.73(a); and

(ii) For all purposes, with respect to any such milk which is not delivered to the pool plant of another handler;

(c) With respect to diversions to nonpool plants, or pursuant to § 1125.40(b)(3):

(1) Milk of any producer may be diverted by a cooperative association or its agent for its account pursuant to § 1125.9(b) from pool distributing plants to nonpool plants or pursuant to § 1125.40(b)(3). The total quantity of milk diverted may not exceed 70 percent during the months of September through January, and 80 percent during the months of February through April of the producer milk which the association or its agent causes to be delivered to pool distributing plants, or diverted therefrom. No percentage limit shall apply during the months of May through August;

(2) Milk of any producer may be diverted by a cooperative association or its agent for its account pursuant to § 1125.9(b) from pool supply plants to nonpool plants or pursuant to § 1125.40(b)(3). The total quantity of milk so diverted may not exceed 50 percent of the producer milk which the association or its agent causes to be delivered to all such pool supply plants or diverted therefrom during the month;

(3) A handler, other than a cooperative association, operating a pool distributing plant may divert therefrom of his account to nonpool plants or pursuant to § 1125.40(b)(3). The total quantity of milk diverted may not exceed 70 percent during the months of September through January and 80 percent during the months of February through April of the milk received at or diverted from such handler's pool distributing 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, however, shall not duplicate milk diverted pursuant to paragraph (c)(1) of this section. No percentage limit shall apply during the months of May through August;

(4) A handler, other than a cooperative association, operating a pool supply plant may divert therefrom for his account to nonpool plants or pursuant to § 1125.40(b)(3). The total quantity of milk so diverted may not exceed 50 percent of the total milk received at or diverted from such pool plant during the month from producers and for which the operator of such plant is the handler during the month;

(5) Milk diverted in excess of the limits specified shall not be considered producer milk, and the diverting handler shall specify the producers whose milk is ineligible as producer milk. If a handler fails to designate such producers, producer milk status shall be forfeited with respect to all milk diverted by the handler during the month;

(6) For purpose of location adjustments pursuant to §§ 1125.52 (a) and (b)

and 1125.75, milk diverted to a nonpool plant or pursuant to § 1125.40(b)(3) shall be priced at the location of the plant or commercial food processing establishment to which diverted; and

(d) In the case of any bulk tank load of milk originating at farms and subsequently divided among plants, the proportion of the load received at each plant shall be prorated among the individual producers involved on the basis of their respective percentages of the total load.

§ 1125.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month of fluid milk products from any source (including all receipts in fluid form from a producer-handler or the plant of a producer-handler as defined under this or any other Federal order) except:

(1) Producer milk; and

(2) Receipts from other pool plants; and

(b) Nonfluid and residual products (including those processed at the plant) which are reprocessed in connection with, or converted to, a fluid milk product during the month. The skim milk component of such products shall be as follows:

(1) A weight equal to the weight of the volume increase caused by nonfat milk solids in dry milk solids or condensed milk or skim milk products used for the fortification of, or as an additive to, fluid milk products; and

(2) The weight of a volume equivalent to the skim milk used to produce such product, with respect to other such products or uses.

§ 1125.15 Fluid milk product.

"Fluid milk product" means the following, in fluid or frozen form (including such products reconstituted or fortified with additional nonfat milk solids):

(a) Milk, skim milk, skim milk drinks, buttermilk, filled milk, flavored milk, and flavored milk drinks;

(b) Concentrated milk, skim milk, flavored milk, and flavored milk drinks; and

(c) Cream (including plain, flavored, sweet or sour) and any mixtures of cream and milk or skim milk (exclusive of ice cream and frozen dessert mixes, cocoa mixes, aerated cream products, and eggnog).

Fluid milk products shall not include those products commonly known as evaporated milk, condensed milk (plain or sweetened), condensed skim milk (plain or sweetened), yogurt, starter, any milk or milk products (including filled milk) sterilized and packaged in hermetically sealed metal or glass containers; or a product which contains 6 percent or more nonmilk fat (or oil).

§ 1125.16 [Reserved]

§ 1125.17 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).

§ 1125.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers, duly organized as such under the laws of any State, which includes members who are producers as defined in § 1125.12 and which the Secretary determines, after application by the association:

(a) To be qualified under the standards set forth in the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have its entire organization and all of its activities under the control of its members; and

(c) To be currently engaged in making collective sale of or marketing milk or its products for its members.

HANDLER REPORTS

§ 1125.30 Reports of receipts and utilization.

On or before the 8th day of each month each handler shall report to the market administrator, in the detail and on forms prescribed by the market administrator, the following information for the preceding month:

(a) Each handler operating a pool plant(s) shall report separately for each pool plant:

(1) The quantities of skim milk and butterfat contained in:

(i) Milk received directly from producers, showing separately any milk of own-farm production;

(ii) Milk received from a cooperative association pursuant to § 1125.9(c);

(iii) Fluid milk products received from other pool plants showing filled milk separately; and

(iv) Other source milk showing filled milk separately.

(2) The utilization of all skim milk and butterfat required to be reported, including separate statements of quantities:

(i) Contained in packaged and bulk fluid milk products on hand at the beginning and end of the month; and

(ii) In route disposition showing separately route disposition of filled milk inside and outside the marketing area;

(3) The aggregate quantities of base milk and excess milk received; and

(4) Such other information with respect to such receipts and utilization as the market administrator may prescribe.

(b) Each producer-handler shall report:

(1) The quantities of skim milk and butterfat contained in:

(i) Milk of own-farm production;

(ii) Receipts of fluid milk products from pool plants, showing separately receipts in packaged form and in bulk; and

(iii) Other source milk, showing separately any receipts from another dairy farmer; and

(2) As specified in paragraph (a) (2) and (4) of this section.

(c) Each cooperative association shall report with respect to milk for which it is the handler pursuant to either § 1125.9(b) or (c):

(1) The quantities of skim milk and butterfat received from producers;

(2) The utilization of skim milk and butterfat for which it is the handler pursuant to § 1125.9(b);

(3) The quantities of skim milk and butterfat delivered to each pool plant pursuant to § 1125.9(c); and

(4) As specified in paragraph (a) (3) and (4) of this section.

(d) Each handler who operates a partially regulated distributing plant shall report as specified in paragraph (a) (1), (2), and (4) of this section except that receipts from dairy farmers in Grade A milk shall be reported in lieu of those in producer milk. Such report shall include separate statements, respectively, showing the respective amounts of skim milk and butterfat disposed of as route disposition in the marketing area as Class I milk and the quantity of reconstituted skim milk in fluid milk products disposed of as route disposition in the marketing area.

(e) Each handler who operates an other order plant with route disposition of fluid milk products in the marketing area shall report the quantities of skim milk and butterfat in such disposition.

§ 1125.31 Payroll reports.

On or before the 20th day of each month, handlers shall report to the market administrator as follows:

(a) Each handler with respect to each of his pool plants and each cooperative association which is a handler pursuant to § 1125.9 (b) or (c) shall submit his producer payroll for deliveries (other than his own-farm production) in the preceding month which shall show:

(1) The total pounds of base milk and the total pounds of excess milk received from each producer, the pounds of butterfat contained in such milk, and the number of days on which milk was delivered by such producer in such month;

(2) The amount of payment to each producer and cooperative association; and

(3) The nature and amount of any deductions or charges involved in such payments; and

(b) Each handler operating a partially regulated distributing plant who wishes computations pursuant to § 1125.76(a) to be considered in the computation of his obligation pursuant to § 1125.76 shall submit his payroll for deliveries of Grade A milk by dairy farmers which shall show:

(1) The total pounds of milk and the butterfat content thereof received from each dairy farmer;

(2) The amount of payment to each dairy farmer (or to a cooperative association on behalf of such dairy farmer); and

(3) The nature and amount of any deductions or charges involved in such payments.

§ 1125.32 Other reports.

At such time and in such manner as the market administrator may prescribe, each handler shall report to the market administrator such information in addition to that required under §§ 1125.30 and 1125.31 as may be requested by the market administrator with respect to milk and milk products (including filled milk) handled by him.

CLASSIFICATION OF MILK

§ 1125.40 Classes of utilization.

Subject to the conditions set forth in §§ 1125.41 and 1125.42, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, subject to the following limitations and exceptions:

(i) Any products fortified with added nonfat milk solids shall be Class I in an amount equal only to the weight of an equal volume of a like unmodified product of the same butterfat content;

(ii) Fluid milk products in concentrated form shall be Class I in an amount equal to the skim milk and butterfat used to produce the quantity of such products disposed of; and

(iii) Products classified as Class II pursuant to paragraph (b)(3), and as Class III pursuant to paragraph (c) (3) and (4), of this section are excepted;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III utilization.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce ice cream, ice cream mix, frozen desserts, aerated cream products, plastic cream, soured cream dressing, yogurt, eggnog, cottage cheese, pot cheese, bakers cheese, cream cheese, neufchatel cheese, starter or any milk or milk products (including filled milk) sterilized and packaged in hermetically sealed metal or glass containers;

(2) Used to produce condensed milk and condensed skim milk utilized for any purposes other than those specified in paragraph (c)(1) of this section; and

(3) In fluid milk products disposed of in bulk to a commercial food processing establishment or in producer milk diverted to a commercial food processing establishment in Pacific County, Wash., subject to conditions of § 1125.42(d), for use in food products that are processed for general distribution to the public for consumption off the premises.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce evaporated milk sterilized in sealed metal containers (whether produced from whole milk, skim milk, or partially skimmed milk), condensed milk and condensed skim milk used to produce another Class III product in a pool plant or in a nonpool plant located within the marketing area or used to fortify Class I products in a pool plant, butter, nonfat dry milk solids, powdered whole milk, casein, and cheese (other than that specified in paragraph (b)(1) of this section), including that contained in residual products resulting from the manufacture of butter and cheese;

(2) In fluid milk products disposed of for livestock feed;

(3) In fluid milk products dumped after such prior notice and opportunity for verification as may be required by the market administrator;

(4) In shrinkage at each pool plant as computed pursuant to § 1125.41(b)(1) but not to exceed the following amount:

(i) Two percent of receipts in producer milk pursuant to § 1125.13(a) (1) and (2); plus

(ii) One and one-half percent of receipts of fluid milk products in bulk from other pool plants; plus

(iii) One and one-half percent of receipts from a cooperative association in its capacity as a handler pursuant to § 1125.9(c), except that if the handler operating the pool plant files notice with the market administrator that he is purchasing such milk on the basis of farm weights and individual producer tests, the applicable percentage shall be 2 percent; plus

(iv) One and one-half percent of receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II or Class III utilization was requested by the operator of such plant and the handler; plus

(v) One and one-half percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II or Class III utilization was requested by the handler; less

(vi) One and one-half percent of fluid milk products disposed of in bulk to other plants or of milk diverted pursuant to § 1125.40(b)(3), except in the case of milk diverted to a nonpool plant or pursuant to § 1125.40(b)(3), if the operator of the plant or commercial food processing establishment to which the milk is diverted purchases such milk on the basis of farm weights and individual producer tests, the applicable percentage shall be 2 percent;

(5) In shrinkage at each pool plant as computed pursuant to § 1125.41(b)(2);

(6) In shrinkage resulting from milk for which a cooperative association is the handler pursuant to § 1125.9 (b) or (c) not being delivered to pool plants, and nonpool plants or diverted pursuant to § 1125.40(b)(3), but not in excess of one-half percent of such receipts, exclusive of those for which farm weights and individual producer tests are used as the basis of receipt at the plant or commercial food processing establishment to which delivered; and

(7) In inventory of bulk fluid milk products on hand at the end of the month.

§ 1125.41 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts at each pool plant as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively (after reducing the quantity transferred to any nonpool plant located on the same premises by a pro rata share of shrinkage in such nonpool plant based on the proportion that such transfers are of its total receipts); and

(b) Prorate the resulting amounts between:

(1) A quantity equal to 50 times the maximum that may be computed pursuant to § 1125.40(c)(4); and

(2) Skim milk and butterfat in other source milk in the form of bulk fluid milk products, exclusive of that specified in § 1125.40(c)(4) (iv) and (v).

§ 1125.42 Classification of transfers and diversions.

Skim milk and butterfat moved by transfer, and by diversion under paragraphs (c) and (d) of this section, as fluid milk products from a pool plant shall be assigned (separately) to each class in the following manner:

(a) To a pool distributing plant: As Class I milk to the extent Class I milk is available at the transferee-plant after computations pursuant to § 1125.44(a) (10) and the corresponding step of § 1125.44(b), subject to the following provisions:

(1) In the event the quantity transferred exceeds the total of receipts from producers and other pool plants at the transferor-plant, such excess shall be assigned to the available milk in each class at the transferee-plant in series beginning with Class III;

(2) If more than one transferor-plant is involved, the available Class I milk shall first be assigned to pool plants located in District 1, and the counties of Pierce and Kitsap, and then in sequence to the plants at which the least location adjustment applies;

(3) If Class I milk is not available in amounts equal to the sum of the quantities to be assigned pursuant to paragraph (a)(2) of this section to plants having the same location adjustments, the transferee-handler may designate to which of such plants the available Class I milk shall be assigned;

(4) Notwithstanding the prior provisions of this paragraph, any such skim milk and butterfat transferred in bulk from a pool plant to a pool distributing plant in which facilities are maintained and used to receive milk or milk products required by a duly constituted regulatory agency to be kept physically separate from Grade A milk shall be classified in accordance with the provisions of paragraph (b) of this section; and

(5) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1125.44(a) (9) and (10) and the corresponding steps of § 1125.44(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee-plant.

(b) To a pool supply plant as Class III milk, subject to the following conditions:

(1) The skim milk or butterfat so assigned to Class III milk shall be limited

to the amount thereof remaining in Class III milk in the transferee-plant after computations pursuant to § 1125.44(a) (10) and the corresponding step of § 1125.44(b) for such plant, and any additional amounts of such skim milk or butterfat shall be assigned to Class II milk to the extent such utilization is available. Any additional amounts of such skim milk and butterfat shall be assigned to Class I milk and credited to transfers from transferor-plants in the sequence at which the least location adjustment applies;

(2) If more than one transferor-plant is involved, the available Class III and/or Class II milk shall first be assigned to transferor-plants located outside District 1 and Kitsap and Pierce Counties, and then in sequence to the plants at which the greatest location adjustment applies; and

(3) If Class III and/or Class II milk is not available in amounts equal to the sum of the quantities to be assigned pursuant to paragraph (b)(2) of this section to plants having the same location adjustments, the transferee-handler may designate to which of such plants the available Class III and/or Class II shall be assigned.

(c) To a nonpool plant:

(1) Except as provided for in paragraph (c)(4) and (5) of this section, as Class I milk, if transferred or diverted to a nonpool plant located outside the marketing area;

(2) As Class I milk, if transferred or diverted to a nonpool plant located in the marketing area, but only to the extent that an equivalent volume transferred from such nonpool plant to a pool distributing plant is allocated to Class I pursuant to § 1125.44(a)(2).

(3) As Class I milk, if transferred or diverted to a producer-handler as defined in any order (including this part) issued pursuant to the Act, or to the plant of such a producer-handler;

(4) As Class II milk to the extent such utilization is available and then to Class III milk, if transferred or diverted to a nonpool plant pursuant to § 1125.13(c) from which fluid milk products are not distributed as route disposition, subject to the following conditions:

(i) The transfer or diversion shall be classified as Class I milk unless the market administrator is permitted to audit the records of the nonpool plant for purposes of verification; and

(ii) If such nonpool plant disposes of fluid milk products to any other nonpool plant distributing fluid milk products as route disposition, the transfer or diversion shall be classified as Class I milk up to the quantity of such disposition to the second nonpool plant; and

(5) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in paragraph (c)(5) (i), (ii), or (iii) of this section:

(i) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(ii) If transferred in bulk form, classification shall be in Class I if allocated as a fluid milk product to Class I under the other order, in Class II if allocated to Class II under an order that provides three classes and in Class III if allocated to Class III under the other order or if allocated to Class II under the order that provides only two classes (including allocation under the conditions set forth in paragraph (c)(5)(iii) of this section;

(iii) If the operators of both the transferor-plant and transferee-plant so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class III and then as Class II to the extent of such class utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee-order;

(iv) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this subparagraph, classification shall be as Class I, subject to adjustment when such information is available; and

(v) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1125.40.

(d) Diverted to a commercial food processing establishment:

(1) Subject to the provisions of § 1125.13(c) and, except as provided in subparagraph (2) of this paragraph as Class II milk if diverted pursuant to § 1125.40(b)(3).

(2) The diversion shall be classified as Class I milk unless the market administrator is permitted to audit the records of the commercial food processing establishment for purposes of verification.

§ 1125.43 General classification rules.

In determining the classification of producer milk pursuant to § 1125.44, the following rules shall apply:

(a) For each month the market administrator shall correct for mathematical and other obvious errors the reports of receipts and utilization submitted pursuant to § 1125.30 (a) and (c) and compute the total pounds of skim milk and butterfat in each class. For the purposes of such computation, 0.06 percent shall be used as the butterfat content of skim milk where no specific tests are available;

(b) If any other source milk not subject to allocation at such plant pursuant to § 1125.44(a) (2) through (6), and the corresponding steps of § 1125.44(b) was received at any pool plant of a handler, there will be computed for such handler the total pounds of skim milk and butterfat, respectively in each class at all of his pool plants combined, exclusive of any classification based upon movements between such plants, and allocation pursuant to § 1125.44 and computation of obligation pursuant to § 1125.60 shall be based upon the combined utilization so computed. For purposes of assigning location adjustments pursuant to § 1125.52 (a) and (b) with respect to fluid milk products moved between such plants, the skim milk and butterfat subtracted from each class pursuant to § 1125.44(a) (2), (3), (5), (6), (9), and (10) and the corresponding steps of § 1125.44(b) will be assigned so far as possible to utilization (exclusive of such interplant movements) reported at the plant at which it was received, and thereafter in sequence to plants at which location adjustment for such class is the same or most nearly similar, and the applicable location adjustments will be determined on the basis of the classification resulting from the application of § 1125.42 (a) and (b) to the remaining utilization reported;

(c) If no fluid milk products to be allocated pursuant to § 1125.44(a) (9) or (10) were received at any pool plant of a handler, the total pounds of skim milk and butterfat, respectively, in each class will be computed for each pool plant of such handler, and allocation pursuant to § 1125.44 and computation of obligation pursuant to § 1125.60 shall be made separately for each pool plant of the handler; and

(d) There will be computed for each cooperative association reporting pursuant to § 1125.30(c) the pounds in each class of skim milk and butterfat, respectively, in producer milk pursuant to § 1125.13(b) (1) and (2)(ii). The amounts so determined shall be those used for computation pursuant to § 1125.44(c).

§ 1125.44 Classification of producer milk.

After making the computations pursuant to § 1125.43, the market administrator shall determine the classification of producer milk for each handler at all his pool plants (or at each pool plant, when § 1125.43(c) applies) as follows:

(a) Skim milk shall be allocated in the following manner, except that the quantities allocated to Class II milk and Class III milk shall be subtracted in series beginning with Class III.

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk classified as Class III pursuant to § 1125.40(c)(4);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of 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 by this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any payment obligation under this or any other order;

(3) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form for route disposition from other order plants, except that to be subtracted pursuant to paragraph (a)(5)(v) 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 remaining pounds of skim milk in Class I the pounds of skim milk in packaged fluid milk products (and for the first month this subparagraph is effective, in bulk fluid milk products) in inventory at the beginning of the month;

(5) 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 in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products not qualified for disposition to consumers in fluid form, or which are from unidentified sources;

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(iv) Receipts of reconstituted skim milk in filled milk from unregulated supply plants that were not subtracted pursuant to paragraph (a)(2) of this section;

(v) Receipts of reconstituted skim milk in filled milk from other order plants which are regulated under an order providing for individual handler pooling to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant; and

(vi) Receipts of milk from a dairy farmer who did not qualify as a producer pursuant to § 1125.12(e).

(6) Subtract, in the order specified below in sequence beginning with Class III, from the pounds of skim milk remaining in Class II and Class III but not in excess of such quantity:

(i) Receipts of fluid milk products from unregulated supply plants, that were not subtracted pursuant to paragraph (a)(2) and (5)(iv) of this section, for which the handler requests Class II or III utilization;

(ii) Remaining receipts of fluid milk products from unregulated supply plants, that were not subtracted pursuant to paragraph (a)(2), (5)(iv), and (6)(i) of this section, which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in receipts of producer milk, receipts from pool plants of other handlers (and of the same handler, when § 1125.43(c) applies), and receipts in bulk from other order plants, that were not subtracted pursuant to paragraph (a)(5)(v) of this section; and

(iii) Receipts of fluid milk products in bulk from an other order plant, that were not subtracted pursuant to paragraph (a)(5)(v) of this section, in excess of similar transfers to such plant, if Class II or III utilization was requested by the operator of such plant and the handler;

(7) Except for the first month this subparagraph is effective, subtract from the pounds of skim milk remaining in each class in series beginning with Class III milk the pounds of skim milk in inventory of bulk fluid milk products on hand at the beginning of the month;

(8) Add to the remaining pounds of skim milk in Class III milk the pounds subtracted pursuant to paragraph (a)(1) of this section;

(9) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to paragraph (a)(2), (5)(iv), and (6) (i) and (ii) of this section;

(10) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to paragraph (a)(5)(v) or (6)(iii) of this section:

(i) In series, beginning with Class III, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II and Class III utilization of skim milk announced for the month by the market administrator pursuant to § 1125.45(a) or the percentage that Class II and Class III utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(11) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers (and of the same handler, when § 1125.43(c) applies) according to the classification assigned pursuant to § 1125.42; and

(12) If the pounds of skim milk remaining in all three classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage".

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section and § 1125.43(d) into one total for each class.

§ 1125.45 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 § 1125.44(a)(10) and the corresponding step of § 1125.44(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 from an other order plant, the classification to which such receipts are allocated pursuant to § 1125.44 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report;

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report; and

(d) On or before the 13th day after the end of each month, report to each cooperative association (or its duly designated agent) which so requests the class utilization of milk of its member producers which is received by each handler directly from farms or from the cooperative association pursuant to § 1125.9(c). For the purposes of this report, such milk shall be prorated to each class in the proportion that the total receipts of milk from producers and from cooperative associations pursuant to § 1125.9(c) of such handler were used in each class.

CLASS PRICES

§ 1125.50 Class prices.

Subject to the provisions of § 1125.52, the class prices for the month, per hundredweight of milk containing 3.5 percent butterfat, shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.85.

(b) *Class II price.* The Class II price shall be the Class III price computed pursuant to paragraph (c) of this section, plus 25 cents per hundredweight.

(c) *Class III price.* The Class III price shall be the basic formula price for the month but not to exceed the price computed as follows:

(1) Multiply the Chicago butter price pursuant to § 1125.51 by 4.2;

(2) Multiply by 8.2 the weighted average of carlot prices per pound for nonfat dry milk solids, spray process, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the results arrived at under paragraph (c) (1) and (2) of this section subtract 48 cents, and round to the nearest cent.

§ 1125.51 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.

§ 1125.52 Plant location adjustments for handlers.

(a) The price of Class I and Class II milk at each plant shall be, regardless of point of disposition within or outside the marketing area, that computed pursuant to § 1125.50 less a location adjustment for such plant shown in the table below or paragraph (b) of this section:

Plant location	Adjustment (cents/cwt)	
	Class I	Class II
District 1 or Kitsap or Pierce Counties	0	0
District 2 or Mason County	10	5.0
District 3 (including the entire counties of Lewis and Pacific)	15	7.5
District 4 or Clallam or Jefferson Counties	40	20.0

(b) For other locations outside the marketing area:

(1) *Class I milk.* 1.5 cents for each 10 miles or fraction thereof by shortest, hard-surfaced highway distance, as determined by the market administrator, that the plant is located from the County-City Building in Seattle.

(2) *Class II milk.* One-half of the amount specified in paragraph (b)(1) of this section, but not to exceed 20 cents per hundredweight.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraphs (a) and (b) of this section, except that no price so adjusted shall be less than the Class III price.

§ 1125.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1125.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICES

§ 1125.60 Handler's value of milk for computing uniform prices.

The value of milk of each pool handler (for each pool plant, when § 1125.43(c) applies) during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1125.44(c), by the applicable class prices (adjusted pursuant to § 1125.52 (a) and (b)) and add together the resulting amounts;

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1125.44(a)(12) and the corresponding step of § 1125.44(b), by the applicable class prices. In case overage occurs in a nonpool plant located on the same premises as a pool plant, such overage shall be prorated between the quantity transferred from the pool plant and other source milk in such nonpool plant, and an amount equal to the value of overage allocated to the transferred quantity at the applicable class price adjusted for location;

(c) Add or subtract, as the case may be, the amount necessary to correct errors as disclosed by the verification of reports of such handler of his receipts and utilization of skim milk and butterfat in previous months for which payment has not been made;

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class III price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1125.44(a)(5) and the corresponding step of § 1125.44(b) except that for receipts of fluid milk products assigned to Class I pursuant to § 1125.44(a)(5) (iv) and (v) and the corresponding step of § 1125.44(b) the Class I price shall be adjusted to the location of the transferor-plant;

(e) Add the amount obtained from multiplying the difference between the Class III price and the Class I price or the Class II price adjusted pursuant to § 1125.52 (a) and (b), as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1125.44(a)(7) and the corresponding step of § 1125.44(b); and

(f) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1125.44(a)(9) and the corresponding step of § 1125.44(b), excluding such skim milk or butterfat in bulk receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by a handler fully regulated under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any payment obligation under this or any other order.

§ 1125.61 Computation of uniform prices for base and excess milk (including weighted average price).

(a) For each month the market administrator shall compute the weighted average price for all milk of 3.5 percent butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1125.60 for all handlers who made the reports prescribed in § 1125.30 and who made the payments pursuant to § 1125.71(a) for the preceding month;

(2) Add the aggregate of the location adjustments computed pursuant to § 1125.75(a);

(3) Add the aggregate of the values on nonpool milk computed pursuant to § 1125.75(c);

(4) Add an amount representing not less than one-half the unobligated cash balance in the producer-settlement fund;

(5) Divide the resulting amount by the sum of the following for all handlers included in such computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1125.60 (f); and

(6) Subtract not less than 4 cents but less than 5 cents from the price computed pursuant to paragraph (a)(5) of this section. The result shall be known as the weighted average price for all milk.

(b) For each month the market administrator shall compute the uniform prices per hundredweight for base milk and excess milk of 3.5 percent butterfat content received from producers as follows:

(1) From the net amount computed pursuant to paragraph (a)(1) through (4) of this section subtract the following:

(i) The amount computed by multiplying the hundredweight of milk specified in paragraph (a)(5)(ii) of this section by the weighted average price for all milk;

(ii) The amount obtained by multiplying by the Class III price the total hundredweight of milk delivered by all producers described in § 1125.93 (c) and (d) for whom no base milk has been computed; and

(iii) The amount computed by multiplying the hundredweight of excess milk by the Class III price rounded to the nearest one-tenth cent: *Provided*, That if such result is greater than an amount computed by multiplying the hundredweight of base milk by the Class I price plus 4 cents, such amount in excess thereof shall be subtracted from the result obtained prior to this proviso;

(2) Divide the net amount obtained in paragraph (b)(1) of this section by the total hundredweight of base milk and subtract not less than 4 cents but less than 5 cents. This result shall be known as the uniform price per hundredweight of base milk of 3.5 percent butterfat content; and

(3) Divide the amount obtained in paragraph (b)(1)(iii) of this section plus any amount subtracted pursuant to the proviso of paragraph (b)(1)(iii) of this section by the hundredweight of excess milk, and subtract any fractional part of 1 cent. This result shall be known as the uniform price per hundredweight of excess milk of 3.5 percent butterfat content.

§ 1125.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The 5th day after the end of each month the butterfat differential for such month; and

(b) The 13th day after the end of each month the weighted average price and the uniform prices for the preceding month.

PAYMENTS FOR MILK

§ 1125.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit all payments made by handlers pursuant to §§ 1125.71, and 1125.76 and out of which he shall make all payments to handlers pursuant to § 1125.72.

§ 1125.71 Payments to the producer-settlement fund.

(a) On or before the 15th day after the end of the month during which the skim milk and butterfat were received, each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a)(1) of this section exceeds the total amount specified in paragraph (a)(2) of this section:

(1) The sum of:

(i) The total value of milk of the handler for such month as determined pursuant to § 1125.60; and

(ii) For a cooperative association handler, the amount due from other handlers pursuant to § 1125.73(d) but without adjustment for butterfat;

(2) The sum of:

(i) The value of milk received by such handler from producers at the applicable uniform prices pursuant to § 1125.73(a)(2) but without adjustment for butterfat;

(ii) The amount to be paid to cooperative associations pursuant to § 1125.73(d) but without adjustment for butterfat; and

(iii) The value at the weighted average price for all skim milk and butterfat applicable at the location of the plant(s) from which received (not to be less than the value at the Class III price) with respect to other source milk for which a value is computed pursuant to § 1125.60(f); and

(b) On or before the 25th day after the end of the month, each handler operating a plant specified in § 1125.7(c) (2) and (3), if such plant is subject to the classification and pricing provisions of another order which provides for individual handler pooling, shall pay to the market administrator for the producer-settlement fund an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk disposed of as route disposition in the marketing area which was allocated to Class I at such other order plant. If reconstituted skim milk in filled milk is disposed of from such plant as route disposition in the marketing areas regulated by two or more market pool orders, the reconstituted skim milk assigned to Class I shall be prorated according to such disposition in each area.

(2) Compute the value of the quantity assigned in paragraph (b)(1) of this section to Class I disposition in this area, at the Class I price under this part applicable at the location of the other order plant (but not to be less than the Class III price) and subtract its value at the Class III price.

§ 1125.72 Payments from the producer-settlement fund.

On or before the 17th day after the end of each month during which the skim milk and butterfat were received, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1125.71(a)(2) exceeds the amount computed pursuant to § 1125.71(a)(1), and less any unpaid obligations of such handler to the market administrator pursuant to §§ 1125.71(a), 1125.77, 1125.85, and 1125.86: *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 1125.73 Payments to producers and to cooperative associations.

(a) Each handler shall make payments to each producer for milk received from such producer during the month:

(1) On or before the 25th day of the month to each producer who had not discontinued shipping milk to such handler before the 15th day of the month, at not less than the Class III price for the preceding month per hundredweight of milk received during the first 15 days of the month, less proper deductions authorized in writing by such producer; and

(2) On or before the 19th day after the end of each month for milk received from such producers during such month:

(i) At not less than the uniform price for base milk for the quantity of base milk received, adjusted by the butterfat differential computed pursuant to § 1125.74 and by any location adjustments applicable under § 1125.75;

(ii) At not less than the Class III price adjusted by the butterfat differential computed pursuant to § 1125.74 for the quantity of milk received from producers described in § 1125.93 (c) and (d) for whom no base milk has been computed;

(iii) At not less than the uniform price for excess milk for the quantity of excess milk received, adjusted by the butterfat differential computed pursuant to § 1125.74; and

(iv) Minus payments made pursuant to paragraph (a)(1) of this section: *Provided*, That, if by such date such handler has not received full payment for such month pursuant to § 1125.72, he shall not be deemed to be in violation of this paragraph if he reduces uniformly for all producers his payments per hundredweight pursuant to this paragraph by a total amount not in excess of the reduction in payment from the market administrator; however, the handler shall make such balance of payment uniformly to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payments is received from the market administrator.

(b) The payments required in paragraph (a) of this section shall be made, upon request, to a cooperative association qualified under § 1125.18, or its duly authorized agent, with respect to milk received from each producer who has given such association authorization by contract or by other written instrument to collect the proceeds from the sale of his milk, and any payment made pursuant to this paragraph, shall be made on or before 2 days prior to the dates specified in paragraph (a) of this section.

(c) Each handler shall pay to each cooperative association or its duly authorized agent which operates a pool plant for skim milk and butterfat received from such plant;

(1) On or before the 23d day of each month for skim milk and butterfat received during the first 15 days of that month at not less than the Class III price for the preceding month; and

(2) On or before the 17th day after the end of such month, an amount of money computed by multiplying the total pounds of such skim milk and butterfat in each class (pursuant to § 1125.42(a) or § 1125.42(b)) by the class price adjusted by the butterfat differential and taking into account any location adjustment as provided by § 1125.52 applicable at the pool plant of the cooperative association or its agent, minus payments made pursuant to paragraph (c)(1) of this section.

(d) Each handler who receives milk for which a cooperative association is the handler pursuant to § 1125.9(c) shall pay such cooperative association for such milk received:

(1) On or before the 23d day of each month for such milk received during the first 15 days of that month at not less than the Class III price for the preceding month; and

(2) On or before the 17th day after the end of each month, for the milk received at not less than the weighted average price for all milk adjusted pursuant to §§ 1125.74 and 1125.75(b), minus payments made pursuant to paragraph (d)(1) of this section.

(e) None of the provisions of this section shall be construed to restrict any

cooperative association qualified under section 8c(5)(F) of the Act from making payment for milk to its producers in accordance with such provision of the Act.

(f) In making payments to producers pursuant to this section, each handler, on or before the 19th day of each month shall furnish each producer with a supporting statement in such form that it may be retained by the producer, which shall show for the preceding month:

(1) The identity of the handler and the producer;

(2) The total pounds of milk delivered by the producer and the average butterfat test thereof, the pounds of base and excess milk, and the pounds per shipment if such information is not furnished to the producer each day of delivery;

(3) The minimum rate(s) at which payment to the producer is required under the provisions of this section;

(4) The rate per hundredweight and amount of any premiums or payments above the minimum prices provided by the order;

(5) The amount or rate per hundredweight of each deduction claimed by the handler, together with a description of the respective deductions; and

(6) The net amount of payment to the producer.

(g) In making payment to a cooperative association in aggregate pursuant to this section, each handler upon request shall furnish to the cooperative association, with respect to each producer for whom such payment is made, any or all of the above information specified in paragraph (f) of this section.

§ 1125.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform prices shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 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.

§ 1125.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payment to producers pursuant to § 1125.73(a) subject to the application of § 1125.13(c)(6) deduction may be made per hundredweight of base milk received from producers at respective plant locations at the same rate as specified for Class I milk set forth in § 1125.52(a) or § 1125.52(b).

(b) In making payments to a cooperative association pursuant to § 1125.73(d) deductions may be made at the rates specified for Class I milk in § 1125.52(a) or § 1125.52(b) for the location of the plant at which the milk was received from the cooperative association.

(c) For purposes of computations pursuant to §§ 1125.71(a) and 1125.72 the weighted average price for all milk shall be adjusted at the rates set forth in § 1125.52(a) or § 1125.52(b) for Class I milk applicable at the location of the nonpool plant from which the milk or filled milk was received, except that the weighted average price shall not be less than the Class III price.

§ 1125.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1125.30(d) and 1125.31(b) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1)(i) The obligation that would have been computed pursuant to § 1125.60 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II or Class III milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk, except that reconstituted skim milk in filled milk shall be valued at the Class III price. No obligation shall apply to Class I milk transferred to a pool plant or an other order plant if such Class I utilization is assigned to receipts at the partially regulated distributing plant from pool plants and other order plants at which an equivalent amount of milk was classified and priced as Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1125.60(f) and a credit in the amount specified in § 1125.71(a)(2)(iii) with respect to receipts from an unregulated supply plant, except that the credit for receipts of reconstituted skim milk in filled milk shall be at the Class III price, unless an obligation with respect to such plant is computed as specified in paragraph (a)(1)(ii) of this section; and

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1125.30(d) and 1125.31(b) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1125.7(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant adjusted to a 3.5 percent butterfat basis by the butterfat differential pursuant to § 1125.74, and like payments made by the operator of a supply plant(s) included in the computations pursuant to paragraph (a)(1) of this section and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as route disposition of Class I milk within the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received at the plant:

(i) As Class I milk from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act; and

(ii) From a nonpool plant that is not an other order plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such nonpool plant by handlers fully regulated under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any payment obligation under this or any other order;

(3) Deduct the quantity of reconstituted skim milk in fluid milk products disposed of as route disposition in the marketing area;

(4) [Reserved]

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class III price), and add for the quantity of reconstituted skim milk specified in paragraph (b)(3) of this section its value computed at the Class I price applicable at the location of the nonpool plant (but not to be less than the Class III price) less the value of such skim milk at the Class III price.

§ 1125.77 Adjustment of accounts.

Whenever verification by the market administrator of reports or payments of any handler discloses errors resulting in money due:

(a) The market administrator from such handler,

(b) Such handler from the market administrator, or

(c) Any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set

forth in the provisions under which such error occurred following the 5th day after such notice.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1125.85 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 15th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1125.44(a) (5) and (9) and the corresponding steps of § 1125.44(b), except such other source milk on which no handler obligation applies pursuant to § 1125.60(f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the Class I milk:

(1) Received during the month at such plant from pool plants and other order plants that is not used as an offset under a similar provision of another order issued pursuant to the Act; and

(2) Specified in § 1125.76(b)(2)(ii).

§ 1125.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than with respect to milk of such handler's own production) pursuant to § 1125.73(a)(2), shall make a deduction of 5 cents per hundredweight of milk, or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe, with respect to the following:

(1) All milk received from producers at a plant not operated by a cooperative association;

(2) [Reserved]

(3) All milk received at a plant operated by a cooperative association from producers for whom the marketing services set forth below in this subparagraph are not being performed by the cooperative association as determined by the market administrator. Such deduction shall be paid by the handler to the market administrator on or before the 15th day after the end of the month. Such moneys shall be expended by the market administrator for the verification of weights, sampling and testing of milk received from producers and in providing for market infomation to producers; such services to be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of each producer:

(1) Who is a member of, or who has given written authorization for the rendering of marketing service and the taking of deduction therefor to, a cooperative association,

(2) Whose milk is received at a plant not operated by such association, and

(3) For whom the market administrator determines that such association is performing the services described in paragraph (a) of this section, each handler shall deduct, in lieu of the deduction specified under paragraph (a) of this section, from the payments made pursuant to § 1125.73(a)(2) the amount per hundredweight on milk authorized by such producer and shall pay, on or before the 15th day after the end of the month, such deduction to the association entitled to receive it under this paragraph.

CLASS I BASE PLAN

§ 1125.90 Production history base and Class I base.

For purposes of determination and assignment of Class I base of each producer:

(a) "Production history base" means a quantity of milk in pounds per day as computed pursuant to § 1125.92 (b) or (c).

(b) "Class I base" means a quantity of milk in pounds per day as computed pursuant to § 1125.93 for which a producer may receive the base milk price.

(c) "Average daily producer milk deliveries" of a producer in any specified period used for computing production history bases means the total pounds of producer milk delivered by the producer divided by the number of days in the period rounded to the nearest whole pound: *Provided*, That if a producer is prevented from delivering milk during the production history period because of storm conditions, the number of days of nondelivery due to such cause not to exceed 4 days in any year may be deducted from the total number of calendar days in the period.

§ 1125.91 Base milk and excess milk.

(a) "Base milk" means:

(1) Milk received from a producer which is not in excess of his Class I base multiplied by the number of days in the month except that if milk is received from a producer for only part of a month, base milk shall be milk received from such producer which is not in excess of his Class I base multiplied by the number of days of production of producer milk delivered during the month; and

(2) Milk received from a producer to whom no Class I base has been issued, in the amount determined pursuant to § 1125.93 (c) or (d).

(b) "Excess milk" means milk in excess of base milk received during any designated period from a producer who during such period is delivering base milk.

§ 1125.92 Computation of production history base for each producer.

A "production history base" as defined in paragraph (b) or (c) of this section shall be determined by the market administrator for each producer eligible for such base on the effective date of this provision and on February 1 of each year thereafter. The computation of production history base shall be subject to adjustments described in paragraph (c)(1) of this section due to acquisition or disposition by transfer of Class I base or other modifications of Class I base due to hardship or loss of Class I base because of underdelivery of base. For purposes of computation of his production history base, a producer shall be considered as having been on the market during any specified period if: As a producer he delivered milk of his production during the designated period without interruption sufficient to cause forfeiture of base pursuant to § 1125.95(a); during such period (after the effective date of this provision) did not dispose of all his Class I base by transfer; and during no year of his production history period were his average daily producer milk deliveries subject to negative adjustments pursuant to paragraph (c)(1) of this section resulting in a zero quantity. If such adjustment results in a zero quantity of average daily deliveries, the producer shall have a 1-year production history period and a corresponding production history base, not subject, however, to the 20 percent reduction provided in paragraph (c)(3) of this section.

(a) "Production history period" means the period to be used for the computation of production history base for a producer. Production history periods for this purpose are as follows:

(1) The production history period for a producer who has been on the market during the 3 years (January–December) preceding the determination of his production history base shall be the 4 months of each such year during which the average daily receipts of total producer milk in the market were lowest for the year. The period described in this subparagraph shall be known as a 3-year production history period.

(2) The production history period for a producer who has been on the market for a lesser period than specified in paragraph (a)(1) of this section but beginning on a date not later than September 1 of one of the three preceding years (January–December) shall be:

(i) In the first year, the months specified in paragraph (a)(1) of this section if the producer were on the market during the first full month so specified, otherwise the months of September through December, of such year; and

(ii) In any other years preceding the determination of his production history base, the 4 months of each year specified in paragraph (a)(1) of this section;

(iii) Periods described in this subparagraph shall be known as 1-year, 2-year or 3-year production history periods depending on whether deliveries began in the first, second, or third year, respectively, preceding determination of production history base;

(3) The production history period for a producer who has been on the market during a period beginning after September 1, 1970, and who delivered producer milk in each of the 7 months preceding the effective date of this provision shall be the first 4 full months of delivery on the market. Such period shall be known as a 1-year production history period. For any such producer, the milk deliveries of the same 4 months shall be used in subsequent updating of production history bases to represent the milk deliveries of such producer in 1970.

When a producer has acquired the herd and farm of a member of his immediate family (either before or after the effective date of this provision) and has continued to operate that farm and herd as a continuous operation, the deliveries made by the previous producer during the base earning period shall be assumed to have been delivered by the current producer for use in computing a production history base.

(b) The production history base for each producer on the effective date of this provision shall be determined by the market administrator as follows:

(1) If the production history period of any producer includes in any year months other than those specified pursuant to paragraph (a)(1) of this section, the average daily producer milk deliveries of such producer in the months used in his production history period shall be adjusted as follows: Multiply the producer's average daily producer milk deliveries by the ratio of average daily total producer milk in the market in the 4 months of the year specified in paragraph (a)(1) of this section to the average daily total producer milk in the market in the months used for such producer; except that for a producer described pursuant to paragraph (a)(3) of this section, the 4-month period specified in paragraph (a)(1) of this section shall be the applicable months in 1970.

(2) For a producer who was issued a Class I base pursuant to the provisions which became effective on September 1, 1967, and thus had a "production history base" which he had earned pursuant to the provisions then effective, and who has continued on the market as a producer since the issuance of such base, the production history base pursuant to this subparagraph shall be the larger of (i) the "production history base" assigned pursuant to the provisions effective September 1, 1967, reduced by the amount specified in the provision made effective September 1, 1967, in § 1125.123(f) with respect to reduction of production history base in proportion to transfer of Class I base, or (ii) such producer's production history base determined pursuant to paragraph (b)(3) of this section. This provision shall apply also to the production history base of a Class I base effective September 1, 1967, if now held by a producer who received it from the original holder by intrafamily transfer, or through a succession of intrafamily transfers.

(3) For a producer with a 3-year production history period, the production history base shall be the sum of his average daily producer milk deliveries each year in the specified months for production history (subject to adjustment of deliveries in any year pursuant to paragraph (b)(1) of this section if applicable) divided by 3.

(4) For a producer with a 1-year or 2-year production history period, the production history base shall be the sum of his average daily producer milk deliveries in each year in the specified months for production history (subject to adjustment of deliveries in any year pursuant to paragraph (b)(1) of this section, if applicable) divided by the number of years in the production history period and multiplied by 60 percent for a 1-year production history period or by 80 percent for a 2-year production history period.

(5) A production history base shall be assigned to producers on the effective date of this provision who qualify for such base pursuant to paragraphs (d), (e), and (f) of this section.

(c) The production history base for each producer who has not disposed of his entire base by transfer, or who after disposing of his entire base by transfer has met the delivery requirements described in § 1125.93(d), shall be determined by the market administrator on February 1 of each year as follows:

(1) In updating a production history base as described in this paragraph, adjustments to a producer's previously assigned production history base and/or average daily producer milk deliveries in prior years shall be made as follows:

(i) If a producer's average daily producer milk deliveries in the combined period of the four production history months of the preceding year is less than the average of such producer's Class I base effective on the first day of each such month, the amount of such difference shall represent a reduction in Class I base. Such reduction shall not apply, however, in the updating of bases on February 1, 1972.

(ii) The prior production history base assigned to such producer shall be adjusted in proportion to the net change in Class I base due to acquiring or disposing of Class I base by transfer, adjustment of Class I base for hardship, or because of underdelivery of Class I base. The adjustment factor shall be determined by dividing the Class I base last held by the producer in the preceding January (after any adjustment pursuant to paragraph (c)(1)(i) of this section), by the amount of Class I base issued on the preceding February 1 or effective date of this provision.

(iii) The average daily producer milk deliveries for which a producer will receive credit in his production history in the current-year and in years prior to any net disposal of Class I base by transfer or reduction due to underdelivery shall be adjusted in proportion to the net change in Class I base. The adjustment factor shall be the Class I base issued on the previous February 1 (or effective date of this provision) less the net amount of Class I base disposed of by transfer since such date and the amount of reduction of Class I base pursuant to paragraph (c)(1)(i) of this section, divided by the amount of Class I base issued on the preceding February 1 (or effective date of this provision).

(iv) If the combined effect of such adjustments is a reduction greater than the respective production history base or average daily producer milk deliveries subject to such adjustments, then the resulting amount after adjustment shall be zero and any year for which a zero amount is determined shall not be regarded as a production history period.

(2) For a producer with a 3-year production history period, the production history base shall be one-third of the sum of the amounts pursuant to paragraph (c)(2)(i), (ii), and (iii) of this section, or the amount pursuant to paragraph (c)(2)(iv) of this section, whichever is larger:

(i) His average daily producer milk deliveries in the specified months for production history in the first year (adjusted pursuant to paragraph (b)(1) of this section, if applicable) reduced by any adjustments pursuant to paragraph (c)(1)(iii) of this section;

(ii) His average daily producer milk deliveries in the specified months for production history in the second year of his production history period, reduced by any adjustments pursuant to paragraph (c)(1)(iii) of this section;

(iii) His average daily producer milk deliveries in the specified months for production history in the most recent year of his production history period reduced by any adjustments pursuant to paragraph (c)(1)(iii) of this section which are applicable to a net disposal of Class I base by transfer;

(iv) The production history base assigned to such producer on the preceding February 1 (or effective date of this provision) subject to any adjustments pursuant to paragraph (c)(1) of this section.

(3) For a producer with a 1- or 2-year production history period who did not acquire Class I base by transfer from another producer, the production history base shall be the sum of his average daily producer milk deliveries for each year (calculated in the same manner and subject to the same type of reductions as described in paragraph (c)(2)(i) of this section) divided by the number of years in his production history period and multiplied by 60 percent if the producer has a 1-year production history period or by 80 percent if he has a 2-year production history period. The resulting quantity shall be subject to a further reduction of 20 percent in the case of any producer who began deliveries after the effective date of this provision or who is a producer described in § 1125.93(d).

(4) For a producer who has acquired a Class I base by transfer from another producer prior to assignment of a production history base computed from deliveries of his own milk production, the production history base to be assigned on the February 1 following a 1-year production history period of such producer shall be the larger of the amounts computed pursuant to paragraph (c)(4)(i) or (ii) of this section, and on the February 1 following a 2-year production history period shall be the amount computed pursuant to paragraph (c)(4)(iii) of this section.

(i) The production history base associated with the Class I base acquired, adjusted pursuant to paragraph (c)(1) of this section.

(ii) One-third of his average daily producer milk deliveries in the specified production history months of the

preceding year (adjusted pursuant to paragraph (b)(1) of this section, if applicable).

(iii) The production history base last assigned on a February 1 adjusted pursuant to paragraph (c)(1) of this section plus one-third of the excess of the producer's average daily producer milk deliveries in the 4 production history months of the preceding year over such adjusted production history base.

(5) For a producer who has been assigned a production history base calculated only from deliveries of his own milk production during a 1-year production history period and who since such assignment has acquired Class I base by transfer from another producer, the production history base of such producer on February 1 following such acquisition of Class I base shall be the production history base last assigned to such producer on the effective date of this provision or on the latest preceding February 1 adjusted pursuant to paragraph (c)(1) of this section plus one-third of the excess of the producer's average daily producer milk deliveries in the four production history months of the preceding year over such adjusted production history base.

(d) For each producer not subject to § 1125.93(d) who became a producer for this market after January 1, 1968, because the plant to which he regularly delivered milk became a fully regulated plant pursuant to this order, a production history base shall be determined, if possible, pursuant to paragraph (b) or (c) of this section based on his deliveries of milk as if the nonpool plant to which he delivered were a pool plant during the 3 preceding years.

(e) A producer not described pursuant to paragraph (d) of this section who delivered milk to a nonpool plant or who delivered manufacturing grade milk to a pool plant prior to becoming a producer, and who is not subject to the provisions of § 1125.93(d), shall have a production history base effective on the first day of the third month after the month in which he began deliveries of producer milk to a pool plant if a production history base can be computed pursuant to paragraph (b) or (c) of this section based on deliveries of milk from the same farm on which he is now a producer as if the plant(s) to which he delivered had been a pool plant(s) during the 3 preceding years.

(f) For a producer who held producer-handler status during any part of the production history periods specified in paragraph (a) of this section, a production history base shall be calculated as prescribed in paragraph (b) or (c) of this section as though the milk of his own production received at his producer-handler plant had been received at a pool plant.

(g) With respect to computation of production history bases pursuant to this section the following rules shall apply:

(1) If a producer operated more than one farm at the same time during any specified production period, a separate computation shall be made with respect to producer milk delivered from each such farm for such period, except that only one computation shall be made with respect to milk production resources and facilities of a producer-handler specified in § 1125.10(b)(1).

(2) Only one production history base shall be allotted with respect to milk produced by one or more persons where the land, buildings, and equipment are jointly used, owned, or operated.

§ 1125.93 Computation of Class I base or base milk for each producer.

On the effective date of this provision and on February 1 of each subsequent year the market administrator shall assign a Class I base to each producer who has a production history base. Class I bases shall be assigned to producers described in paragraphs (d), (e), and (f) of § 1125.92 when they are issued production history bases. Class I bases shall be computed as follows:

(a) Compute a "Class I base percentage" as follows:

(1) Determine the sum of Class I dispositions during the preceding calendar year from the following:

(i) Class I producer milk pursuant to § 1125.44(c),

(ii) The Class I disposition of plants during the period when they were nonpool plants, if such plants were pool plants in the preceding December, and

(iii) The Class I disposition of his own production of a person who was a producer-handler during a portion of the year and who held producer status in the preceding December.

Multiply the sum by 1.20 and divide the result by the number of days in such year: *Provided*, That on the effective date of this provision, comparable Class I disposition for the year 1970 will be determined, including that of former nonpool plants and producer-handlers which in the second month preceding the effective date were, respectively, pool plants and producers.

(2) Divide the quantity computed pursuant to paragraph (a)(1) of this section by a quantity which is the total of production history bases computed pursuant to § 1125.92. The result shall be converted to a percentage by multiplying by 100 and rounding to the third decimal place. Such percentage shall be known as the "Class I base percentage."

(b) The Class I base of each producer with a production history base shall be determined by multiplying his production history base by the "Class I base percentage."

(c) A producer, other than a producer pursuant to paragraph (d) of this section, who has no production history base shall be assigned base milk each month effective on the first day of the third month after the month in which he began deliveries of producer milk. Such base milk for each month prior to the first February 1 on which he is eligible for a Class I base shall be computed as follows:

(1) Multiply the quantity of producer milk delivered by the producer during the month by the ratio of average daily total producer milk in the market in the last 4 months described in § 1125.92(a)(1) used in the computation of production history base for assignment on the effective date hereof or on the February 1 preceding this computation to the average daily total producer milk in the market in the month of the year preceding this calculation which corresponds to the current month for which Class I base assignment is being computed.

(2) Multiply the quantity resulting from the computation pursuant to paragraph (c)(1) of this section by 40 percent and by the Class I base percentage, and if such producer began production after the effective date of this provision, or is a producer described in paragraph (d) of this section, subtract from the resulting quantity 20 percent of such quantity, rounding in either event to the nearest whole number.

(d) A producer who, after having forfeited or disposed of all of his Class I base, either continues as a producer on the market or discontinues deliveries to the market and returns to the market as a producer, shall be assigned base milk computed in the manner specified in paragraph (c) (1) and (2) of this section, such assignment to be effective on the later of the following dates: the first day of the third month after the month in which he recommences deliveries of producer milk on the market, or the first day of the seventh month after the month in which a producer who forfeits his base ceases deliveries or a producer disposes of his Class I base. The production history period of such producer shall begin on the later of the following dates: the date on which he first received payment for base milk or the first day of the first month eligible for use in a production history period pursuant to § 1125.92(a). In the application of this provision, use of the same production facilities by another person (or the same person under a different name) to produce milk after the above described forfeiture or transfer of base shall be considered as a continuation of the operation by the previous operator if the new operator is a member of the immediate family of the previous operator. It shall be applied also to any production facility to which a Class I base has not been assigned, wherever located, operated by a person in which the producer who forfeited or transferred his base has a financial interest if such facility commences production on or after the effective date of the transfer or forfeiture, or such producer acquired his financial interest in such person later than 3 months prior to the effective date of the base transfer or forfeiture.

§ 1125.94 Transfer of bases.

Production history and Class I base may be transferred pursuant to the following rules and conditions:

(a) A transfer of base means the transfer of both the production history base and the Class I base associated with it at the time of transfer. The percentage of Class I base transferred shall be applied to the total production history base

held at the time of transfer to determine the corresponding amount of production history transferred.

(b) The market administrator must be notified in writing by the holder of the Class I base prior to the first day of the month of transfer of the name of the person to whom the Class I base is to be transferred, the effective date of the transfer and the amount of base to be transferred if less than the entire Class I base held by the transferor.

(c) It must be established to the satisfaction of the market administrator that the conveyance of such base is bona fide and not for the purpose of evading any provision of this order, and comes within the remaining provisions of this section.

(d) A transfer may be made only to a producer (a person who is currently a producer on the market or who will become a producer under the terms of the order by the last day of the month of transfer).

(e) A transfer of Class I base may be made in amounts of not less than 150 pounds or the entire base, whichever is smaller. The amount of base credited to the transferee shall be two-thirds of the Class I base disposed of by the transferor producer.

(f) A transfer of a portion of a Class I base shall be a partial transfer and shall be effective only on the first day of a month. A transfer where the transferee producer will combine the Class I base received with Class I base already held shall be considered a partial transfer.

(g) A transfer of a complete Class I base of a producer to a person who does not hold a Class I base will be effective on the date of transfer of herd and farm, or on the first day of the month if no herd and farm is transferred, provided in either case that a base transfer request was made to the market administrator before the first day of the month of transfer.

(h) An intrafamily transfer (including transfers to an estate and from an estate to a member of the immediate family) will not be subject to a one-third lapse of base, provided that the transfer implements a continuous operation on the same farm with the same herd. All restrictions on transferring base applicable to the transferor producer shall also apply to the transferee.

(i) A producer who receives a base pursuant to § 1125.92 (d) or (e) may not transfer such base, other than pursuant to paragraph (h) of this section, for 1 year from the date of receipt or such later date as provided in paragraph (k) of this section.

(j) A producer-handler who becomes a producer and receives a base may not transfer that base for a period of 3 years from the date of receipt, except to a member of the immediate family pursuant to paragraph (h) of this section.

(k) A base which has been computed from a less than 3-year production history period may not be transferred, except as an intrafamily transfer pursuant to paragraph (h) of this section.

(l) If a base is held by a corporation, a change in ownership of the stock which transfers control to a new person or persons will require a transfer of bases and compliance with all base rules therein.

§ 1125.95 Miscellaneous base rules.

The following base rules shall be observed in the determination of bases:

(a) A person who discontinues delivery of producer milk for a period of 60 consecutive days after a Class I base is issued to him shall forfeit his production history, together with any Class I base and production history base held pursuant to the provisions of this order, except that a person entering the military service may retain them until 1 year after being released from active military service.

(b) As soon as production history bases and Class I bases are computed by the market administrator, notice of the amount of each producer's production history base and Class I base shall be given by the market administrator to the producer, to the handler receiving such producer's milk, and to the cooperative association of which the producer is a member. Each handler, following receipt of such notice, shall promptly post in a conspicuous place in his plant a list or lists showing the Class I base of each producer whose milk is received at such plant.

(c) As a condition for designation as a producer-handler pursuant to § 1125.10, any person (including any member of the immediate family of such a person, any affiliate of such a person, or any business of which such a person is a part) who has held Class I base any time during the 12-month period prior to such designation shall forfeit the maximum amount of Class I and production history base held at any time during such 12-month period.

§ 1125.96 Hardship provisions.

Requests of producers for relief from hardship or inequity arising under the provisions of §§ 1125.92 through 1125.95 will be subject to the following:

(a) After bases are first issued under this plan and after bases are issued on each succeeding February 1, a producer may request review of the following circumstances because of alleged hardship or inequity:

(1) He was not issued a Class I base;

(2) His production history base is not appropriate because of unusual conditions during the base-earning period such as loss of buildings, herds, or other facilities by fire, flood or storms, official quarantine, disease, pesticide residue, condemnation of milk, or military service of the producer or his son;

(3) Loss or potential loss of Class I base pursuant to § 1125.95(a);

(4) Loss or potential loss of Class I base because of underdeliveries pursuant to § 1125.92(c)(1);

(5) Inability to transfer base due to the provisions of § 1125.94 (i), (j), or (k);

(b) The producer shall file with the market administrator a request in writing for review of hardship or inequity not later than 45 days after notice pursuant to § 1125.95(b) with respect to requests pursuant to paragraph (a) (1) or (2) of this section, or not later than 45 days after the occurrence with respect to requests pursuant to paragraph (a) (3), (4), or (5) of this section, setting forth:

(1) Conditions that caused the alleged hardship or inequity;

(2) The extent of the relief or adjustment requested;

(3) The basis upon which the amount of adjustment requested was determined; and

(4) Reasons why the relief or adjustment should be granted.

(c) One or more Producer Base Committees shall be established and function as follows:

(1) Each Producer Base Committee shall consist of five producers appointed by the market administrator.

(2) Each committee shall review the requests for relief from hardship or inequity referred to it by the market administrator at a meeting in which the market administrator or his representative serves as recording secretary and at which the applicant may appear in person if he so requests.

(3) Recommendations with respect to each such request shall be endorsed at the meeting by at least three committee members and shall:

(i) With respect to requests pursuant to paragraph (a) (1), (3), (4), or (5) of this section, grant or adjust production history bases and average daily producer milk deliveries for prior years where it appears appropriate, delay forfeiture of Class I base, restore forfeited base or reduced average daily producer milk deliveries where appropriate, and permit transfer of base not otherwise possible under the order provisions.

(ii) With respect to requests pursuant to paragraph (a)(2) of this section, either reject the request or provide adjustment in the form of additional production history base and average daily producer milk deliveries for prior years where it appears appropriate and the effective date thereof of such adjustment. In considering such requests the loss of milk production due to the following shall not be considered a basis for hardship adjustment:

(a) Loss of milk due to mechanical failure of farm tank or other farm equipment; and

(b) Inability to obtain adequate labor to maintain milk production, except that hardship adjustment may be granted in the case of a producer or the son of a producer who entered into military service directly from employment in milk production;

(4) Recommendation of the Producer Base Committee shall:

(i) If to deny the request, be final upon notification to the producer, subject only to appeal by the producer to the Director, Dairy Division, within 45 days after such notification; or

(ii) If to grant the request in whole or in part, be transmitted to the Director, Dairy Division, and shall become final unless vetoed by such Director within 15 days after transmitted.

(5) Committee members shall be reimbursed by the market administrator from the funds collected under § 1125.85 for their services at $20 per day or portion thereof, plus necessary travel and subsistence expenses incurred in the performance of their duties as committee members.

(d) The market administrator shall maintain files of all requests for alleviation of hardship and the disposition of such requests. These files shall be open to the inspection of any interested person during the regular office hours of the market administrator.

[FR Doc.73-11166 Filed 6-5-73;8:45 am]

DEPARTMENT OF COMMERCE

Office of Foreign Direct Investments

[15 CFR Part 1000]

FOREIGN DIRECT INVESTMENT REGULATIONS

Allocation of Proceeds of Long-Term Foreign Borrowing

NOTE.—The Foreign Direct Investment Regulations appear in title 15, chapter X, part 1000 of the Code of Federal Regulations (CFR). All sections of the Foreign Direct Investment Regulations contained in CFR are preceded by the designation "1000" (e.g., § 1000.312). The "1000" prefix has, for convenience, been eliminated from the section references contained in the explanatory material below. The abbreviations "DI" and "AFN" are used to refer to "direct investor" and "affiliated foreign national."

Notice is hereby given that the Office of Foreign Direct Investments (the "Office") proposes to amend the Foreign Direct Investment Regulations (the "regulations"), to provide for 1973 flexibility in the allocation of available proceeds of long-term foreign borrowing. The amendment relieves a restriction, and consequently will become effective as of the date of publication in final form in the FEDERAL REGISTER. Prior to the adoption of the amendment, consideration will be given to any comments, data, views, arguments, or suggestions pertaining thereto which are submitted in writing and received by the Office on or before June 18, 1973. Such comments or suggestions should be directed to the Chief Counsel, Office of Foreign Direct Investments, Department of Commerce, Washington, D.C. 20230.

The proposed amendment to section 306(e)(1) will permit a DI to deduct from positive direct investment made during 1973 an amount equal to any available proceeds of long-term foreign borrowing (or proceeds borrowing from the DI's overseas finance subsidiary) made on or before February 28, 1974, that are allocated to such positive direct investment, provided (1) the DI makes the appropriate bookkeeping entries for allocation, (2) the allocation and deduction are reported on the DI's Form FDI-102F for 1973, and (3) the proceeds, as of February 28, 1974, are not held, directly or indirectly, in any form of foreign property. However, the proceeds may be expended by the DI in making a transfer of capital to an AFN at any time.

Thus, a DI may reduce positive direct investment made during 1973 by allocating available proceeds of any long-term foreign borrowing that is outstanding on February 28, 1974. Such borrowing may be made during January or February 1974, or may have been made by the DI during 1973 or a prior year. The regular 12-month maturity test of section 324 for long-term foreign borrowing will, of course, apply to any borrowing of which available proceeds are allocated, that is, such borrowings, including those that are refinanced, must be continuously outstanding for at least 12 months.

This additional flexibility in the use of proceeds to reduce positive direct investment was first adopted in 1971 by an amendment to section 306(e)(1) that was applicable only to that year. A similar amendment was adopted for the 1972 Program, and the proposed amendment to section 306(e)(1) continues that flexibility for the 1973 Program.

The text of the amendment is as follows:

Paragraph (e)(1) of § 1000.306 is amended to read as follows:

§ 1000.306 Positive and negative direct investment.

* * * * *

(e)(1) There shall be deducted from positive direct investment in a scheduled area during any year, as calculated under paragraph (a) of this section, an amount equal to any available proceeds (as defined in § 1000.324(d)) allocated by the direct investor to such positive direct investment for such year. Available proceeds shall be allocated to such positive direct investment for such year if (i) an entry is made in the books and records maintained by the direct investor under §§ 1000.203(b) and 1000.601; (ii) the allocation and deduction is reported on the next annual report of the direct investor (Form FDI-102F) filed for the year for which the deduction is made; and (iii) the proceeds, as of the end of the year for which the deduction is made and thereafter, are not held, directly or indirectly, in the form of foreign balances or in the form of securities (including debt obligations, equity interests, and any other type of investment contract) of foreign nationals or in the form of any other foreign property: *Provided*, That proceeds so allocated may at any time be expended in making transfers of capital to affiliated foreign nationals. In addition, available proceeds of long-term foreign borrowing made on or before February 28, 1974 (including available proceeds so treated under § 1000.1403(a)(1) as the result of proceeds borrowing made on or before February 28, 1974) shall be allocated to such positive direct investment for the year 1973 if bookkeeping entries and a report on Form FDI-102F for 1973 are made with respect to such allocation, as required under this section, and such proceeds, as of February 28, 1974, are not held, directly or indirectly, in the form of foreign balances or in the form of securities of foreign nationals or in the form of any other foreign property: *Provided*, That proceeds so allocated may at any time be expended in making transfers of capital to affiliated foreign nationals.

* * * * *

This amendment shall be effective as of the date of publication in final form in the FEDERAL REGISTER.

(Sec. 5, Act of October 6, 1917, 40 Stat. 415, as amended, 12 U.S.C. 95a; Executive Order 11387, Jan. 1, 1968, 33 FR 47.)

ROBERT A. ANTHONY,
Director, Office of Foreign Direct Investments.

MAY 31, 1973.

[FR Doc.73-11172 Filed 6-5-73;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[24 CFR Parts 1700, 1710, 1720, 1730]

[Docket No. N-73-157]

LAND REGISTRATION, FORMAL PROCEDURES, AND ADVERTISING, SALES PRACTICES, AND POSTING OF NOTICES OF SUSPENSION

Notice of Hearing

On May 4, 1973, a notice of proposed rulemaking (24 CFR pts. 1700, 1710, 1720, 1730) was published in the FEDERAL REGISTER inviting comment on the proposed revision of the regulations promulgated pursuant to the Interstate Land Sales Full Disclosure Act.

The Administrator of the Office of Interstate Land Sales Registration, as a result of comments received on the notice of proposed rulemaking, finds that it is appropriate in the public interest in carrying out the provisions of the Interstate Land Sales Full Disclosure Act that an informal public proceeding of record be conducted with an opportunity for all interested parties, by their counsel if they so desire, to present oral comment with respect to parts 1700, 1710, 1720, and 1730 of the regulations.

Opportunity will be afforded for an exchange of comments between representatives of consumer organizations, interested State regulatory officials and others regarding the land sales industry.

Accordingly, notice is hereby given that an informal proceeding will be held in the Department of Commerce Auditorium, Constitution Avenue between 12th and 14th Streets NW., Washington, D.C., at 10 a.m., e.d.t., on June 28, 1973.

Persons wishing to appear and make statements should file with the rules docket clerk, room 10150, Office of General Counsel, Department of HUD Building, 451 Seventh Street SW., Washington, D.C. 20410, a request to be allocated time for their respective statements. Time will also be allocated for unscheduled appearances.

The date for receipt of written comments on the proposed regulations by the rules docket clerk is extended from June 15, 1973, until June 28, 1973.

Issued at Washington, D.C., May 31, 1973.

GEORGE K. BERNSTEIN,
Interstate Land Sales Administrator.

[FR Doc.73-11316 Filed 6-5-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 73-GL-25]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending part 71 of the "Federal Aviation Regulations" so as to alter the transition area at Jefferson, Ohio.

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 Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Ill. 60018. All communications received on or before July 6, 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, 2300 East Devon Avenue, Des Plaines, Ill. 60018.

A new RNAV instrument approach procedure has been developed for the Ashtabula County Airport, Jefferson, Ohio. Accordingly, it is necessary to alter the Jefferson transition area to adequately protect the aircraft executing the new approach procedure.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 71 of the "Federal Aviation Regulations" as hereinafter set forth:

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

JEFFERSON, OHIO

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Ashtabula County Airport, Ashtabula, Ohio (lat. 41°46'40" N., long. 80°41'45" W.) and within 3.5 miles each side of the Jefferson VORTAC 243° radial extending from the 8-mile radius area to 11.5 miles southwest of the VORTAC.

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 Des Plaines, Ill., on May 11, 1973.

LYLE K. BROWN,
Director, Great Lakes Region.

[FR Doc.73-11220 Filed 6-5-73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 73-SW-32]

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 Stratford, 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 July 6, 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:

STRATFORD TEX.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Stratford Field (latitude 36°21'32" N., longitude 102°02'55" W.[1]).

The proposed transition area will afford controlled airspace for a proposed instrument approach procedure to serve Stratford Field based on utilization of the Dalhart VORTAC facility. Approach control service for Stratford Field will be provided by the Albuquerque ARTC Center through the Dalhart Flight Service Station.

Associated nonrule action has been initiated by 73-SW-122-NRA which provides detailed information on the proposed instrument approach procedure for Stratford Field and the anticipated change of the airport usage to accommodate instrument (IFR) operations.

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

Issued in Fort Worth, Tex., on May 25, 1973.

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

[FR Doc.73-11221 Filed 6-5-73;8:45 am]

[1] Coordinates plotted from Stratford 7½' quadrangle chart on which is depicted Stratford Field.

Federal Railroad Administration

[Docket No. RSOR-1; Notice 2]

[49 CFR Part 217]

RAILROAD OPERATING PRACTICES

Extension of Time for Filing Comments; New Date for Public Hearing

On May 14, 1973, the Federal Railroad Administration (FRA) published in the FEDERAL REGISTER a notice of proposed rulemaking to add a new part 217 to title 49 of the Code of Federal Regulations to establish initial rules with respect to railroad operating practices (38 FR 12617). It was provided in that notice that written communications received before June 14, 1973, would be considered by the Administrator before the final rules are published and that a public hearing would be held on the matter at 10 a.m. on June 15, 1973, in room 5332, 400 Seventh Street SW., Washington, D.C.

The Association of American Railroads has filed a request for additional time to submit its views and arguments and to make a presentation at an oral hearing. Because no other person has thus far expressed an intention to participate at the public hearing, and for good cause shown in the AAR request, the FRA has decided to extend the closing date for filing written comments on the matter and to postpone the public hearing.

The new deadline for filing comments is August 14, 1973. Comments filed after that date will be considered only so far as practicable. The new time and place for the oral hearing is 10 a.m., August 15, 1973, in room 5332, Nassif Building, 400 Seventh Street SW., Washington, D.C. Persons wishing to make an oral presentation should notify the docket clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590, before August 15. Participants should refer to the original notice (38 FR 12619) for a brief statement of the procedures to be followed at the hearing.

(Sec. 202, 84 Stat. 971; 45 U.S.C. 431; § 1.49 (n), 49 CFR 1.49(n).)

Issued in Washington, D.C., on June 1, 1973.

DONALD W. BENNETT,
Chief Counsel.

[FR Doc.73-11255 Filed 6-5-73;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 25472; EDR-244A]

[14 CFR Parts 244, 249, 296, 297]

AIR FREIGHT FORWARDERS AND INTERNATIONAL AIR FREIGHT FORWARDERS

C.o.d. Collections

The Board, by circulation of notice of proposed rulemaking EDR-244, dated April 26, 1973, gave notice that it had under consideration the adoption of amendments to parts 244, 249, 296, and 297 of the "Economic Regulations" (14 CFR, pts. 244, 249, 296, and 297) so as to require air freight forwarders and international air freight forwarders to remit all c.o.d. collections to the consignor or his designee within 10 days after delivery of the shipment to the consignee, and to provide security protection to consignors for c.o.d. collections. Interested persons were invited to participate by submission of 12 copies of written data, views, or arguments pertaining thereto to the docket section of the Board on or before June 1, 1973.

Counsel for the Air Freight Forwarders Association (AFFA), on behalf of its members, has requested an extension of the time for filing comments until June 15, 1973. The request states that the additional time will be necessary in order to obtain and review certain data with respect to the facts recited in the Board's notice.

The undersigned finds that good cause has been shown for an extension of time for filing comments until June 15, 1973.

Accordingly, pursuant to authority delegated in § 385.20(d) of the Board's "Organization Regulations," the undersigned hereby extends the time for submitting comments to June 15, 1973.

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

Dated June 1, 1973.

[SEAL] ARTHUR H. SIMMS,
Associate General Counsel,
Rules and Rates.

[FR Doc.73-11294 Filed 6-5-73;8:45 am]

VETERANS' ADMINISTRATION

[38 CFR Part 21]

LAW COURSES

Notice of Proposed Regulatory Development

The proposed amendment to § 21.4274 provides for the measurement of courses in an accredited law school under the same criteria used for measurement of collegiate graduate resident courses.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans' Affairs (232H), Veterans' Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All relevant material received before July 6, 1973, will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays), during the mentioned 30-day period and for 10 days thereafter. Any person visting central office for the purpose of inspecting any such comments will be received by the Central Office Veterans Assistance Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in central office and furnished the address and the above room number.

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

In § 21.4274, paragraph (a) is amended to read as follows:

§ 21.4274 **Law courses.**

(a) *Accredited.* A law course in an accredited law school leading to a standard professional law degree will be assessed as provided in § 21.4273(a).

* * * * *

Approved May 31, 1973.

By direction of the Administrator.

[SEAL] R. L. ROUDEBUSH,
Assistant Deputy Administrator.

[FR Doc.73-11297 Filed 6-5-73;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 STATE

[Public Notice CM-35]

NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE

Notice of Study Group Meeting

The Department of State announces that study group 3 of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet on July 10, 1973, at 9:30 a.m. in room 4833, Department of Commerce Main Building, 14th Street (between E Street and Constitution Avenue NW.), Washington D.C. Study group 3 studies matters relating to the fixed communication service operating at radio frequencies below about 30 MHz. The agenda for the meeting will include the following areas within which U.S. documents are under development as proposed contributions to the international meeting of study group 3 in 1974:

a. Lincompex.
b. Ionospheric channel simulation.
c. Signal-to-noise ratios, signal-to-interference ratios, and fading allowances.
d. Radiotelegraph.

Members of the general public who desire to attend the meeting on July 10, will be admitted up to the limits of the capacity of the meeting room.

GORDON L. HUFFCUTT,
Chairman,
U.S. National Committee.

MAY 24, 1973.

[FR Doc.73-11229 Filed 6-5-73;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Order No. 67, revision 11]

SIGNING THE COMMISSIONER'S NAME OR ON HIS BEHALF

Delegation of Authority

Effective 11:30 a.m., e.d.t., May 29, 1973, all outstanding authorizations to sign the name of, or on behalf of, Raymond F. Harless, Acting Commissioner of Internal Revenue, are hereby amended to authorize the signing of the name of, or on behalf of, Donald C. Alexander, Commissioner of Internal Revenue.

This order supersedes delegation order No. 67 (revision 10) issued May 1, 1973.

Date of issue May 29, 1973.

Effective date May 29, 1973.

[SEAL] DONALD C. ALEXANDER,
Commissioner.

[FR Doc.73-11212 Filed 6-5-73;8:45 am]

Office of the Secretary

SURGICAL RUBBER GLOVES FROM AUSTRIA

Antidumping; Determination of Sales at Not Less Than Fair Value

MAY 31, 1973.

Information was received on July 28, 1972, that surgical rubber gloves from Austria were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of August 31, 1972, on page 17768.

On April 4, 1973, there was published in the FEDERAL REGISTER a "Notice of Tentative Negative Determination" (38 FR 8603-04), that surgical rubber gloves from Austria are not being, nor are likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

Interested parties were afforded an opportunity to make written submissions and to present oral views in connection with the tentative determination. No written submissions or requests to present oral views having been received, I hereby determine that surgical rubber gloves from Austria are not being, nor are likely to be, sold at less than fair value (section 201(a) of the Act; 19 U.S.C. 160(a)).

Statement of reasons on which this determination is based. Information currently before the Bureau of Customs indicates that the quantity sold for home consumption is so small in relation to the quantity sold for exportation to countries other than the United States as to form an inadequate basis for fair-value comparisons. As a result, sales to a third country will be used as the basis for fair value. The proper basis of comparison for fair-value purposes is between purchase price and the third country price of such or similar merchandise.

Purchase price was calculated on a delivered U.S. destination price. Deductions were made for United States, Austrian and German inland freight and insurance, ocean freight and marine insurance, German port and handling charges, commissions, and U.S. duty, as appropriate. Adjustments were made for taxes not collected by reason of the exportation of the merchandise.

The third country price was based on an f.o.b. Austrian border price of such or similar merchandise with a deduction for inland freight. An adjustment was made for commissions, and an addition was made for Austrian taxes.

Using the above criteria, purchase price was found to be higher than the third country price of such or similar merchandise.

This determination is published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)) and § 153.33(b), Customs Regulations (19 CFR 153.33(b)).

[SEAL] EDWARD L. MORGAN,
Assistant Secretary of the Treasury.

[FR Doc.73-11249 Filed 6-5-73;8:45 am]

DEPARTMENT OF DEFENSE

Air Force

SCIENTIFIC ADVISORY BOARD

Notice of Meetings

MAY 31, 1973.

The USAF Scientific Advisory Board Geophysics Panel will hold closed meetings on June 13, 1973, from 8:30 a.m. until 5 p.m., and on June 14, 1973, from 8:30 a.m. until noon, at L. G. Hanscom Field, Mass.

The panel will receive classified briefings on Air Force Cambridge Research Laboratories and air weather service programs.

The USAF Scientific Advisory Board Ad Hoc Committee on Engine Development will hold closed meetings on June 25 and 26, 1973, from 8:45 a.m. until 4:30 p.m., at the Pentagon, Washington, D.C.

The committee will receive classified briefings on engine development programs.

The USAF Scientific Advisory Board Committee on B-1 Structures will hold closed meetings on June 28 and 29, 1973, from 8:30 a.m. until 5 p.m., at the Rockwell International Corp., Los Angeles, Calif.

The committee will receive classified briefings on structural aspects of the B-1 development program.

For further information on these meetings, contact the Scientific Advisory Board Secretariat at 202-697-4648.

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

[FR Doc.73-11214 Filed 6-5-73;8:45 am]

DEPARTMENT OF THE INTERIOR

National Park Service

MESA VERDE NATIONAL PARK

Notice of Intention To Negotiate Concession Contract

Pursuant to the provisions of section 5, of the act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20) public notice is hereby

given that on July 6, 1973, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Mr. Emmett C. Koppenhafer, doing business as M. V. Pack and Saddle authorizing him to provide concession facilities and services for the public at Mesa Verde National Park, Colo., for a period of 5 years from January 1, 1973, through December 31, 1977.

The foregoing concessioner has performed his obligations under the expiring contract to the satisfaction of the National Park Service, and therefore, pursuant to the act cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, under the act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within 30 days after the publication date of this notice.

Interested parties should contact the Chief of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated May 29, 1973.

LAWRENCE C. HADLEY,
Assistant Director,
National Park Service.

[FR Doc.73-11215 Filed 6-5-73;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of East-West Trade

[File 23(73)-4]

OMNITRONIC ELEKTRONISCHE GERAETE GES. M.B.H. AND WALTER BASTA

Order Temporarily Denying Export Privileges

In the matter of Omnitronic Elektronische Geraete Ges. M.B.H. and Walter Basta, Mariahilferstrasse 117, 1060 Vienna, Austria.

The Director, Compliance Division, Office of Export Control, Bureau of East-West Trade, pursuant to § 388.11 of the Export Control Regulations, has applied to the Hearing Commissioner for an order against the above respondents temporarily denying all U.S. export privileges. The Hearing Commissioner has reviewed the application and the evidence presented in support thereof and has submitted his report, together with a recommendation that the application be granted and that a temporary denial order be issued for 60 days.

On the evidence presented there is reasonable basis to believe the following: The respondent Omnitronic Elektronische Geraete Ges. M.B.H. is a limited liability company with a place of business in Vienna; the respondent Walter Basta is the principal shareholder in the company and is its managing director; the company is engaged in producing and trading in electronic equipment. In the transaction hereinafter described, Basta acted for and on behalf of the company. The evidence presented further shows that in June 1972, the respondent Omnitronic ordered a strategic neutron generator from the Austrian representative of a U.S. company; Basta represented that the end user was a university in Ankara, Turkey; on application of the U.S. company and on the basis of Basta's representations as to end-use in an export document an export license was issued authorizing the exportation for end-use in Turkey; the generator was shipped to Ankara and officials of the university deny having ordered it; on instructions from Basta the generator was reshipped to Vienna where, through improper means, Basta obtained possession and sold it to a customer in the U.S.S.R., a destination that was not authorized. The evidence also shows that respondents have participated in transactions involving the procurement of military equipment from the United States.

The investigation relating to respondents' participation in the above transaction is continuing. I find that it is reasonably necessary to protect the public interest pending final disposition of the investigation to issue an order against respondents denying all U.S. export privileges for a period of 60 days.

Accordingly, it is hereby ordered, I. All outstanding validated export licenses in which respondents appear or participate, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Bureau of East-West Trade for cancellation.

II. The respondents, their successors, assigns, representatives, agents, and employees hereby are denied all privileges of participating directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States, in whole or in part, or to be exported, or which are otherwise subject to the Export Control Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any validated export license application; (b) in the preparation or filing of any export license application or reexportation authorization, or any document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control document; (d) in the carrying on of negotiations with respect to or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data in whole or in part exported or to be exported from the United States; and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondents, but also to their agents and employees and to any person, firm, corporation, or business organization with which they now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith.

IV. This order shall become effective forthwith and shall remain in effect for a period of 60 days unless it is hereafter extended, modified, or vacated in accordance with the provisions of the U.S. Export Control Regulations.

V. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Bureau of East-West Trade shall do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondents, or whereby the respondents may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion, of any commodity or technical data exported or to be exported from the United States, by, to, or for any respondent, or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

VI. A copy of this order shall be served on respondents.

VII. In accordance with the provisions of § 388.11(c) of the Export Control Regulations, the respondents may move at any time to vacate or modify this temporary denial order by filing with the Hearing Commissioner, Bureau of East-West Trade, U.S. Department of Commerce, Washington, D.C. 20230, an appropriate motion for relief, supported by substantial evidence, and may also request an oral hearing thereon, which, if requested, shall be held before the Hearing Commissioner, Washington, D.C. at the earliest convenient date. This order shall become effective immediately.

Dated May 31, 1973.

WILSON E. SWEENEY,
Acting Director, Office of Export Control, Bureau of East-West Trade.

[FR Doc.73-11332 Filed 6-5-73;8:45 am]

National Oceanic and Atmospheric Administration

RALPH QUINLAN

Notice of Public Hearing

Notice is hereby given that, as authorized by § 216.13(f) of the "Regulations Governing the Taking and Importing of Marine Mammals" (37 FR 28177, 28183, Dec. 21, 1972), there will be a public hearing on the application of the following named individual for an exemption from the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361, 86 Stat. 1027 (1972)), on the grounds

of undue economic hardship in order to take the marine mammals hereafter described for purposes of public display. Such hearing will be held on June 20, 1973, at 10 a.m., in the Department of Commerce Auditorium, Main Commerce Building, 14th Street and Constitution Avenue NW., Washington, D.C.

Mr. Ralph Quinlan, doing business as Quinlan Marine Attractions, Route 3, Lincolnton, N.C. 28092, to capture as many as six Atlantic bottle-nose dolphins (*Tursiops truncatus*) from various parts of the Gulf of Mexico between June and October 21, 1973, for public display in the Historic Wax Museum, Washington, D.C., and Carowinds Park, Charlotte, N.C. A detailed summary of the application was published in the FEDERAL REGISTER on May 16, 1973 (38 FR 12839).

Individuals and organizations may appear at the hearing and express views orally or in writing. These will be made a part of the official record of the hearing. Individuals and organizations may also submit written views for inclusion in the official record to the Director, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Washington, D.C. 20235. Such views must be postmarked no later than midnight July 10, 1973. Documents submitted in connection with this application, except documents containing information exempt from public disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552(b)), are available for inspection at the above office.

Dated June 1, 1973.

ROBERT W. SCHONING,
Acting Director.

[FR Doc.73-11321 Filed 6-5-73;8:45 am]

MARITIME ADMINISTRATION

ABERDEEN SHIPPING, INC., ET AL.

Filing of Application for Construction-Differential Subsidy

Notice is hereby given pursuant to title V of the Merchant Marine Act, 1936, as amended, that Aberdeen Shipping, Inc., Dundee Shipping, Inc., Glasgow Transport, Inc., Inverness Shipping, Inc., Montrose Shipping, Inc., and Perth Shipping, Inc., each a Delaware corporation filed on December 18, 1972, for construction-differential subsidy for qualified U.S. citizen companies to aid in the construction of six (one for each company) 380,000 dwt very large crude carriers (tankers) to be used to transport foreign petroleum products in the foreign trade of the United States.

Interested parties may inspect these six applications in the Office of the Secretary, room 3099-B, Maritime Administration, Commerce Department Building, 14th and E Streets NW., Washington, D.C. 20235.

Dated June 1, 1973.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.73-11311 Filed 6-5-73;8:45 am]

MARITIME FRUIT CARRIERS CO., LTD.

Filing of Application for Construction-Differential Subsidy

Notice is hereby given pursuant to title V of the Merchant Marine Act, 1936, as amended, that Maritime Fruit Carriers Co., Ltd. (MFC), filed on May 21, 1973, for construction-differential subsidy for a qualified U.S. citizen company to aid in the construction of two 265,000 dwt very large crude carriers (tankers) for use in the general worldwide carriage of petroleum.

The vessels will be constructed in accordance with the plans and specifications previously approved by the Maritime Administration for the three vessels presently under construction for the MFC—Boston Tankers Cos., Inc., which plans and specifications are described in the material prepared by Bethlehem Steel Corp. and titled "Specifications—265,000 dwt tanker, design PR-2856, edition AV, June 1972."

Interested parties may inspect this proposal in the Office of the Secretary, room 3099-B, Maritime Administration, Commerce Department Building, 14th and E Streets NW., Washington, D.C. 20235.

Dated June 1, 1973.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.73-11309 Filed 6-5-73;8:45 am]

VIRGINIA SHIPPING CORP.

Filing of Application for Construction-Differential Subsidy

Notice is hereby given pursuant to title V of the Merchant Marine Act, 1936, as amended, that Virginia Shipping Corp., filed on June 1, 1973, for construction-differential subsidy for qualified U.S. citizen companies to aid in the construction of six 380,000 dwt very large crude carriers (tankers) to be used in the carriage of crude oil from the Persian Gulf to a port on the Gulf Coast of the United States (or such transshipment port as may be served pending completion of a deep water port in the gulf).

Interested parties may inspect this application in the Office of the Secretary, room 3099-B, Maritime Administration, Commerce Department Building, 14th and E Streets NW., Washington, D.C. 20235.

Date June 1, 1973.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.73-11310 Filed 6-5-73;8:45 am]

[Docket No. S-358]

PRUDENTIAL-GRACE LINES, INC.

Notice of Application

Notice is hereby given that Prudential-Grace Lines, Inc., has applied for permission to make calls at Spanish ports on the Atlantic Ocean and Bay of Biscay that lie between the north border of Portugal and the south border of France with ships operating on its subsidized Trade Route No. 10 (U.S. North Atlantic/Mediterranean) Service.

Any person, firm, or corporation having any interest in such application and desiring a hearing on issues pertinent to section 605(c) of the Merchant Marine Act, 1936, as amended, 46 U.S.C. 1175, should by the close of business on June 15, 1973, notify the Secretary, Maritime Subsidy Board in writing, in triplicate, and file petition for leave to intervene in accordance with the rules of practice and procedure of the Maritime Subsidy Board/Maritime Administration.

In the event a hearing is ordered to be held on the application under section 605(c), the purpose thereof will be to receive evidence relevant to (1) whether the application is one with respect to a vessel to be operated on a service, route, or line served by citizens of the United States which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of U.S. registry in such service, route, or line is inadequate, and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may be deemed appropriate.

By order of the Maritime Subsidy Board.

Dated June 4, 1973.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.73-11406 Filed 6-5-73;8:45 am]

[Docket No. S-356]

UNITED SHIPPING CORP.

Notice of Application

Notice is hereby given that United Shipping Corp. has filed an application for operating-differential subsidy on nine (9) new tankers (to be constructed) of approximately 80,000 dwt tons each. Said vessels will be used primarily in the importation of crude petroleum and petroleum products into the United States, but may at times be operated in other worldwide service in the foreign commerce of the United States in the carriage of liquid bulk cargoes and dry bulk cargoes not subject to the cargo preference statutes including 10 U.S.C. 2631, 46 U.S.C. 1241, and 15 U.S.C. 616a.

Any party having an interest in such application and who would contest a finding of the Board that the service now provided by vessels of U.S. registry for the worldwide carriage of liquid and dry bulk cargoes, not subject to the cargo preference statutes, moving in the foreign commerce of the United States or in any particular trade in the foreign commerce of the United States is inadequate, must, on or before June 14, 1973, notify the Secretary in writing of his interest and of his position and file a petition for leave to intervene in accordance with the Board's rules of practice and procedure (46 CFR pt. 201). Each such statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the Merchant Marine Act, 1936, as amended, and with as much specificity as possible the facts that the intervenor would undertake to prove at such hearing.

In the event that a section 605(c) hearing is ordered to be held, the purpose of such hearing will be to receive evidence relevant to whether the service already provided by vessels of U.S. registry for the worldwide movement of liquid and dry bulk cargoes in the foreign oceanborne commerce of the United States is inadequate and whether in the accomplishment of the purposes and policy of the act additional vessels should be operated.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing the Maritime Subsidy Board will take such action as may be deemed appropriate.

By order of the Maritime Subsidy Board.

Dated June 4, 1973.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.73-11404 Filed 6-5-73;8:45 am]

[Docket No. S-357]

UNITED SHIPPING CORP.

Notice of Application

Notice is hereby given that United Shipping Corp. has filed an application dated May 11, 1973, under the Merchant Marine Act, 1936, as amended (the Act), for operating-differential subsidy on nine tanker vessels (to be constructed) which are to be employed in U.S. foreign trade. Since Sea Transport Corp. and Eagle Terminal Tankers, Inc., affiliates of United Shipping Corp., own and operate U.S.-flag tankers which from time to time operate in domestic intercoastal or coastwise trade, written permission of the Maritime Administration under section 805(a) of the Act will be required by United Shipping Corp. if its application for operating-differential subsidy is approved.

United Shipping Corp. has applied for permission for its affiliates to continue to operate their vessels in domestic coastwise or intercoastal trade. The following vessels are owned by affiliates of United Shipping Corp.:

Ship:	*Owner*
Eagle Traveler	Sea Transport Corp.
Eagle Voyager	Do.
Eagle Charger	Eagle Terminal Tankers, Inc.
Eagle Leader	Do.
Eagle Courier	Do.
Eagle Transporter	Do.

Interested parties may inspect the application under consideration in the Office of Subsidy Administration, Maritime Administration, room No. 4888, Department of Commerce Building, 14th and E Streets NW., Washington, DC. 20235.

Any person, firm or corporation having interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit comments or views concerning the application must, by close of business on June 18, 1973, file same with the Maritime Subsidy Board/Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board/Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled for 10 a.m., on June 20, 1973, in room 4896, Department of Commerce Building, 14th and E Streets NW., Washington, DC 20235. The purpose of the hearing will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal services, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

By order of the Maritime Subsidy Board/Maritime Administration.

Dated June 4, 1973.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.73-11405 Filed 6-5-73;8:45 am]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Notice of Availability for Licensing

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

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

Paper copies of patents cannot be purchased from NTIS but are available from the Commissioner of Patents, Washington, D.C. 20231, at $0.50 each. Requests for licensing information should be directed to the address cited below for each agency.

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

U.S. ATOMIC ENERGY COMMISSION, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent application 137,062: Baths and Processes for the Electrodeposition of Nickel; filed Apr. 23, 1971; PC $3/MF $0.95.

Patent application 152,836: A Selectable Level Alarming Personal Dosimeter; filed June 14, 1971; PC $3/MF $0.95.

Patent application 234,877: Improved Method and Reagent for Determining Nitrogen Oxides; filed Apr. 13, 1972; PC $3/MF $0.95.

Patent application 238,977: Preparation of (238) Pu (16)02; filed Mar. 28, 1972; PC $3/MF $0.95.

Patent application 257,965: In Situ Coal Bed Gasification; filed May 30, 1972; PC $3.25/MF $0.95.

Patent application 258,399: High-Current Cable Engagement Tool; filed May 31, 1972; PC $3/MF $0.95.

Patent application 262,802: Method for Storing Radioactive Combustible Waste; filed June 14, 1972; PC $3/MF $0.95.

Patent application 266,092: Anhydrous Hydrogen Fluoride Electrolyte Battery; filed June 26, 1972; PC $3/MF $0.95.

Patent 3,695,834: Cation Exchange Conversion of Hydroxylamine Sulfate to Hydroxylamine Nitrate; filed Oct. 12, 1970, patented Oct. 3, 1972; not available NTIS.

Patent 3,697,373: Nuclear Fuel Element; filed June 2, 1970; patented Oct. 10, 1972; not available NTIS.

Patent 3,697,374: Gradient-Type Nuclear Fuel Plate; filed Nov. 3, 1970, patented Oct. 10, 1972; not available NTIS.

Patent 3,697,436: Production of Uranium and Plutonium Carbides and Nitrides; filed Nov. 26, 1969, patented Oct. 10, 1972; not available NTIS.

Patent 3,697,756: Device for Inserting Tagged Sand Into Ocean Floor; filed July 7, 1971, patented Oct. 10, 1972; not available NTIS.

Patent 3,699,337: Personnel Neutron Dosimeter; filed Mar. 16, 1971, patented Oct. 17, 1972; not available NTIS.

Patent 3,700,482: Uranium Surface Preparation for Electroless Nickel Plating; filed Dec. 1, 1970, patented Oct. 24, 1972; not available NTIS.

Patent 3,700,535: Carbon Fiber Structure and Method of Forming Same; filed Mar. 12, 1971, patented Oct. 24, 1972; not available NTIS.

Patent 3,700,551: Device to Prevent Sodium Freezing Around Shaft Penetration; filed Feb. 18, 1971, patented Oct. 24, 1972; not available NTIS.

Patent 3,700,554: Space Reactor Ground Safety and Control System; filed June 20, 1968, patented Oct. 24, 1972; not available NTIS.

Patent 3,700,568: Electrochemical Carbon Meter; filed Apr. 14, 1969, patented Oct. 24, 1972; not available NTIS.
Patent 3,700,602: Method for Mass Tagging Sand with a Radioactive Isotope; filed Sept. 4, 1969, patented Oct. 24, 1972; not available NTIS.
Patent 3,700,899: Method for Producing a Beam of Polarized Atoms; filed Aug. 26, 1971, patented Oct. 24, 1972; not available NTIS.
Patent 3,702,936: Dose Rate Dosimeter Circuit; filed Mar. 19, 1971, patented Nov. 14, 1972; not available NTIS.
Patent 3,706,511: Laminated Plastic Propeller; filed Apr. 6, 1971, patented Dec. 19, 1972; not available NTIS.
Patent 3,711,591: Reductive Stripping Process for the Recovery of Uranium from Wet-Process Phosphoric Acid; filed July 8, 1970, patented Jan. 16, 1973; not available NTIS.
Patent 3,700,892: Separation of Mercury Isotopes; filed Aug. 25, 1971, patented Oct. 24, 1972; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA-Code GP-2, Washington, D.C. 20546.

Patent application 325,784: Reconstituted Asbestos Matrix; filed Jan. 22, 1973; PC $3/MF $0.95.
Patent application 322,997: Bonding of apphire to Sapphire by Eutectic Mixture Aluminum Oxide and Zirconium Oxide; filed Jan. 12, 1973; PC $3/MF $0.95.
Patent application 244,440: Star Tracking Reticles and Process for the Production Thereof; filed Apr. 17, 1972; PC $3.25/MF $0.95.
Patent application 331,759: Cascade Plug Nozzle; filed Feb. 13, 1973; PC $3.25/MF $0.95.
Patent 3,711,042: Aircraft Control System; patented Jan. 16, 1973; not available NTIS.
Patent 3,713,163: Plural Beam Antenna; patented Jan. 23, 1973; not available NTIS.
Patent 3,714,526: Phototransistor; patented Jan. 30, 1973; not available NTIS.
Patent 3,712,712: Apparatus for Photographing Meteors; patented Jan. 23, 1973; not available NTIS.
Patent 3,712,121: Self-Recording Portable Soil Penetrometer; patented Jan. 23, 1973; not available NTIS.
Patent 3,712,120: Multi Axes Vibration Fixtures; patented Jan. 23, 1973; not available NTIS.
Patent 3,712,591: Zero Gravity Liquid Mixer; patented Jan. 23, 1973; not available NTIS.

[FR Doc.73-11173 Filed 6-5-73;8:45 am]

GOVERNMENT-OWNED INVENTIONS

Notice of Availability for Licensing

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

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

Paper copies of patents cannot be purchased from NTIS but are available from the Commissioner of Patents, Washington, D.C. 20231, at $0.50 each. Requests for licensing information should be directed to the address cited below for each agency.

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

U.S. ATOMIC ENERGY COMMISSION, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent application 107,382: Fibrous Fibrin Sheet and Method for Producing Same; filed Jan. 18, 1971; PC $3/MF $0.95.
Patent application 114,769: Improved Apparatus for Leaching Core Material from Sheared Segments of Clad Nuclear Fuel Pins; filed Feb. 12, 1971; PC $3/MF $0.95.
Patent application 183,659: Gold Recovery from Aqueous Solutions; filed Sept. 24, 1971; PC $3/MF $0.95.
Patent application 268,262: A Method of Repressing the Precipitation of Calcium Fluozirconate; filed July 3, 1972; PC $3/MF $0.95.
Patent application 284,810: Catalytic Reduction of Nitrogen Oxides; filed Oct. 30, 1972; PC $3/MF $0.95.
Patent application 243,365: A Solid State Radiation Detector; filed Apr. 11, 1972; PC $3/MF $0.95.
Patent 3,683,975: Method of Vibratory Loading Nuclear Fuel Elements; filed Feb. 12, 1971, patented Aug. 15, 1972; not available NTIS.
Patent 3,693,012: Passive Source of Secondary Radiation with a Source-Shield Grid; filed Jan. 22, 1971, patented Sept. 19, 1972; not available NTIS.
Patent 3,697,235: Method of Purifying Uranium Hexafluoride by Reduction to Lower Uranium Fluorides; filed Mar. 31, 1960, patented Oct. 10, 1972; not available NTIS.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Westwood Bldg., Bethesda, Md. 20014.

Patent application 275,777: Countercurrent Chromatography with Flow-Through Coil Planet Centrifuge; filed July 27, 1972; PC $3/MF $0.95.
Patent application 272,144: Vibrating Pipette Probe Mixer; filed July 17, 1972; PC $3/MF $0.95.
Patent application 335,155: Method of Making Thin Defect-Free Silicone Rubber Films and Membranes; filed Feb. 23, 1973; PC $3/MF $0.95.
Patent application 274,291: Preparation of Urushiol from Poison Ivy or Poison Oak; filed July 21, 1972; PC $3/MF $0.95.

[FR Doc.73-11174 Filed 6-5-73;8:45 am]

Office of Import Programs

INSTITUTE FOR MEDICAL RESEARCH

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket No. 73-00407-00-46040. Applicant: Institute for Medical Research, Copewood Street, Camden, N.J. 08103. Article: Universal cassette for Elmiskop IA and I Electron microscope. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is intended to be used for etiological studies of mammary carcinoma. Ultrastructural features of the mouse mammary tumor virus will be compared with those of the putative human mammary tumor virus. Application received by Commissioner of Customs: March 5, 1973.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to a compatible accessory for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used and is pertinent to the applicant's purposes.

The Department of Commerce knows of no similar accessory being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

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

[FR Doc.73-11230 Filed 6-5-73;8:45 am]

JOHNS HOPKINS UNIVERSITY ET AL.

Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.). (See especially § 701.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket No. 73-00397-33-46040. Applicant: The Johns Hopkins University, Charles and 34th Street, Baltimore, Md. 21218. Article: Electron microscope, model JEM 100B. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in carrying out several research projects. These research projects include the following:

(1) Formation of tropocollagen molecules from their constituent gelatin chains.
(2) Investigation of morphological abnormalities found in some histidine regulatory mutants of *Salmonella typhimurium*

and a study of flagellar mutants in this same organism by electron microscopy to properly characterize such mutants.

(3) Localization at the electron microscope level of Drosophila alcohol dehydrogenase activity in cells of the fat body.

(4) Appearance of alcohol dehydrogenase activity in the cells of the developing imaginal discs.

(5) Localization by appropriate electron microscope biochemistry of betahydroxybutyrate dehydrogenase activity in the fat body.

(6) Investigation of the precise mechanism of sugar transport across membranes, and very possible the structure of permeases in bacterial membranes.

Application received by Commissioner of Customs: February 2, 1973. Advice submitted by Department of Health, Education, and Welfare on: May 16, 1973.

Docket No. 73-00403-33-46040. Applicant: Brandeis University, 415 South Street, Waltham, Mass. 02154. Article: Electron Microscope, Model EM 301. Manufacturer: Philips Electronic Instruments, NVD, the Netherlands. Intended use of article: The article is intended to be used for research of the relation between form and function in biological structures at the molecular level, e.g., virus particles, oligomeric enzymes, muscle, microtubules, fibrinogen, and membranes. Structural studies on representative systems in these categories are to be carried out with emphasis on small viruses, isolated muscle proteins and membranes. Application received by Commissioner of Customs: March 5, 1973. Advice submitted by Department of Health, Education, and Welfare on: May 16, 1973.

Docket No. 73-00409-33-46040. Applicant: University of Cincinnati, College of Medicine, Eden and Bethesda Avenues, Cincinnati, Ohio 45219. Article: Electron Microscope, Model JEM 100B. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for ultrastructural research on biological material. Some of the studies to be undertaken are as follows:

(1) Ultrastructural studies on embryonic chick connective tissues;

(2) Fine structure studies of connective tissue after short-term ingestion of cadmium;

(3) Ultrastructural and biochemical analysis of isolated liver mitochondria in diabetic rats;

(4) Study of morphologic changes in testicular-interstitial tissue of the rat after cryptochidism or X-irradiation;

(5) Ultrastructural studies on cultured Hept-2 cells treated with diphtheria toxin and cytochalasin B;

(6) Study of ultrastructural morphology, cellular adhesion, and mucopolysaccharide synthesis following treatment with cytochalasin B;

(7) Study of testicular interstitial morphology following chronic cadmium ingestion;

(8) Study of ultrastructural changes within the rat testis and epididymis after surgical interruption of the vas deferens.

(9) Histochemical localization of mucopolysaccharides at the ultrastructural level in the spleens of mice under conditions of erythropoietic stimulation and inhibition and in genetically anemic mice; and

(10) Ultrastructural characterization of hamster corpora lutea during growth and regressive phases.

The article is also intended to be used in the course Micro Anatomy (Histology) for light and electron microscopic interpretation of tissues within the normal body to understand the disease processes in the practice of medicine. In addition the article will be used to teach graduate and medical students the use of electron microscopy in basic science research. Application received by Commissioner of Customs: March 2, 1973. Advice submitted by Department of Health, Education, and Welfare on May 16, 1973.

Docket No. 73-00500-65-46040. Applicant: The University of Rochester, College of Engineering and Applied Science, River Station, Rochester, N.Y. 14627. Article: Electron microscope, Model JEM 100B. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in research programs in the study of metals, metal alloys, ceramics, ceramic alloys, and polymers. The types of phenomena to be studied are:

(1) The effects of microstructural variations on the fracture toughness of mild steels.

(2) The effect of production variables on mechanical properties of grain-size strengthened materials.

(3) Determination of slip systems and dislocation Burgers vectors.

(4) Microstructural variations of polymers.

(5) Precipitation and phase transformation in metals and alloys.

(6) Deformation substructure studies of materials.

(7) Annealing phenomena in metals and ceramics.

In addition the article will be used in conjunction with undergraduate courses and graduate courses in materials science, chemical engineering, and mechanical engineering.

Application received by Commissioner of Customs: January 24, 1973. Advice submitted by the National Bureau of Standards on: May 22, 1973.

Comments: No comments have been received in regard to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, is being manufactured in the United States. Reasons: Each foreign article has a specified resolving capability of three angstroms. The most closely comparable domestic instrument is the model EMU-4C electron microscope which is manufactured by the Forgflo Corp. (Forgflo). The model EMU-4C has a specified resolving capability of five angstroms. (Resolving capability bears an inverse relationship to its numerical rating in angstrom units, i.e., the lower the rating, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare or the National Bureau of Standards, in the respectively cited memoranda, that the additional resolving capability of the foreign articles is pertinent to the purposes for which each of the foreign articles to which the foregoing applications relate is intended to be used. We, therefore, find that the Forgflo model EMU-4C is not of equivalent scientific value to any of the articles to which the foregoing applications relate, for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

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

[FR Doc.73-11231 Filed 6-5-73;8:45 am]

LONG ISLAND UNIVERSITY ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before June 26, 1973.

Amended regulations issued under cited act, as published in the February 24, 1972, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 73-00406-01-77040. Applicant: Long Island University, Chemistry Department, 385 Flatbush Avenue Extension, Brooklyn, N.Y. 11201. Article: Mass spectrometer, model CH-7. Manufacturer: Varian MAT, West Germany. Intended use of article: The article will be used as both a teaching and research tool. Studies concern quantitative analysis of trace amounts of material, measurement of molecular weight, scanning of ion fragmentation spectra, determination of appearance potentials, and determination of isotope abundance ratios. The research programs involve inorganic, organic, biological, physical, and nuclear chemistry. Application received by Commissioner of Customs March 5, 1973.

Docket No. 73-00510-33-02700. Applicant: Duke University Medical Center, Department of Orthopedic Surgery, Durham, N.C. 27710. Article: Ultrathin fiberoptics endoscope, type 25. Manufacturer: Shinko Optical Co. Ltd., Japan. Intended use of article: The article is intended to be used in the study of arthritis and painful joints distortion intrareticular

structures. Application received by Commissioner of Customs May 7, 1973.

Docket No. 73-00511-75-41700. Applicant: University of California—Los Angeles, 405 Hilgard Avenue, Los Angeles, Calif. 90024. Article: Model TEA-103-IF laser. Manufacturer: Lumonics Research, Ltd., Canada. Intended use of article: The article is intended to be used for studies of high density plasmas to determine the degree of relection or absorption of 10.6μ laser radiation by plasma. Application received by Commissioner of Customs May 7, 1973.

Docket No. 73-00512-23-20800. Applicant: Brookhaven National Laboratory, Associated Universities, Inc., Upton, Long Island, N.Y. 11973. Article: 76-mm flexible Dewar. Manufacturer: Kabelmetal, West Germany. Intended use of article: The article is intended to be used in a research and development program to establish the feasibility of using a superconducting cable for the transmission of electrical power. The following characteristics of the article will be investigated:

(a) Thermal heat leak into the system,
(b) Thermal stresses and strain of the component tubes during cooldown and warmup,
(c) Leak tightness under high pressure helium,
(d) Leak tightness under high vacuum,
(e) The effect of Dewar flexing on the thermal insulation, and
(f) Pressure drop and flow information of the component tubes.

Application received by Commissioner of Customs: May 2, 1973.

Docket No. 73-00513-33-46040. Applicant: The University of Michigan, Department of Environmental and Industrial Health, 109 South Observatory, Ann Arbor, Mich. 48104. Article: Electron microscope, model Corinth 275. Manufacturer: AEI Scientific Apparatus, Ltd., United Kingdom. Intended use of article: The article is intended to be used for research purposes to examine ultrathin sections and freeze etch replicas of biological materials. Specifically, the article will be used to elucidate the structural differences of epidermal desmosomes in normal epidermis and in chemically induced basal cell carcinoma (BCC) (epidermis) of rats as a model system. This study is part of an overall research program to determine the structural and biochemical characteristics of epidermal cancer and to further our knowledge of the epidermal differentiation process. A second research for which the article is intended to be used deals with the general area of subcellular responses to environmental stress. The response of interest in this study is the formation of the autophagic vacuoles (AV), an intracellular organelle which has some enzymatic properties of lysosomes and consists of a series of wholed myelin-like membranes inside of which are trapped components of the cell such as mitochondria, peroxisomes, endoplasmic reticulum, glycogen, etc. In addition the article is to be used for educational purposes in the following courses:

Environmental and Industrial Health EIH 536,
Introductory Biochemistry—Biochem 416,
Elements of Environmental Biology EIH 507,
Microbial Ecology EIH 576,
Fund of Instrumental Methods of Chemical Analysis, and
Thesis Research EIH 995.

Application received by Commissioner of Customs May 2, 1973.

Docket No. 73-00514-65-46070. Applicant: Southern Illinois University, Center for Electron Microscopy, Carbondale, Ill. 62901. Article: Scanning electron microscope, model mark IIA. Manufacturer: Cambridge Scientific Instruments, Ltd., United Kingdom. Intended use of article: The article is intended to be used on a universitywide basis for faculty and graduate research and teaching. Research specimens in the physical sciences will include fracture studies of alloys and composites, precision location of heterojunctions in solid-state devices, nucleation and crystal growth studies, examination of bonding interfaces, and metal cutting surfaces and fatigue studies. Research specimens to be studied in the natural sciences include bacterial spores, protozoa, pollens, seeds, leaves, and microscopic morphology of fossils. The article will be used for teaching a course which involves transmission and scanning electron microscopy as well as ancillary equipment and their application to biological metallurgical research. Application received by Commissioner of Customs: July 27, 1972.

Docket No. 73-00515-99-07500. Applicant: State University College of New York, Brockport, N.Y. 14420. Article: LKB 8700 precision calorimeter system. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used in chemistry courses to familiarize students with modern precision calorimetry as applied to physiochemical measurements, instrumental analysis, inorganic thermochemistry, biochemical studies, and research techniques in thermochemistry for the study of the energetics of organic reactions in their mechanisms. Application received by Commissioner of Customs May 9, 1973.

Docket No. 73-00516-33-46040. Applicant: Veterans Administration Hospital, Chief, Supply Service, 508 Fulton Street, Durham, N.C. 27705. Article: Electron miscroscope, model JEM 100B. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of various types of materials. In general, human, animal, microbial, and viral tissues will be studied. Also, homogenized, centrifuged fractions of tissue will be examined, for example, in order to determine their content. Studies will range from low magnification survey studies to high resolution membrane and protein subunit analysis. Planned experiments include:

(1) Study of spherical and tubular particles in the serum of patients with hepatitis and in the serum of asymptomatic chronic carriers,
(2) Studies on macromolecules such as fibrin, DNA, ribosomes, antibodies (such as IgM), collagen, muscle proteins, etc., and
(3) Low-power studies on kidney biopsies.

The article will also be used for training of residents, medical and graduate students, and technologists, including student technologists in various aspects of electron microscopy. Application received by Commissioner of Customs: May 9, 1973.

Docket No. 73-00517-33-46040. Applicant: College of Physicians and Surgeons of Columbia University, Department of Pathology—15th floor, 630 West 168th Street, New York, N.Y. 10032. Article: electron microscope, model Elmiskop IA. Manufacturer: Siemens, West Germany. Intended use of article: The article is intended to be used for studies of human brain biopsies, experimental animals (BALB mice), tissue culture cells (Hamster cells), viruses (including Harvey virus, and Picronavirus), human fibroblasts, HeLa cells, Vero, L, KB, H Ep 2, and MDBK and myoblast cell lines. Ultrastructural changes in cell organelles and membranes associated with exposure to murine sarcoma virus and the effects of carcinoidal agents will be investigated. A separate study will examine effects of cytochalasin D (CD) on various cell lines with particular attention to aggregations of microfilaments and effects of CD on fibrillogenesis in cell cultures of human fibroblasts. A separate study will also be made of murine sarcoma virus examining ultrastructurally for cell changes and tracing the development of the viruses at cell surfaces. Effects of altered polyamine concentrations on virus development and tumor transformation is also to be studied using aminoguanidine, a diamine oxidase inhibitor. In addition the article is to be used for training of selected residents involved in research projects. Application received by Commissioner of Customs: May 11, 1973.

Docket No. 73-00519-98-68495. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, Ill. 60439. Article: ^{3}He gas pumping system. Manufacturer: Alcatel, France. Intended to be used as part of the ^{3}He recirculating refrigerator of a polarized target used to measure a spin correlation parameter (Cnn) in high energy proton-proton elastic scattering. Application received by Commissioner of Customs May 9, 1973.

Docket No. 73-00520-33-09300. Applicant: University of Oregon, Department of Chemistry, Eugene, Oreg. 94703. Article: Microcell for T-Jump, gold electrodes. Manufacturer: Messanlagen Studiengesellschaft m.b.H., West Germany. Intended use of article: The article is intended to be used in a scholarly research study of conformation changes in model biological macromolecules. The article will also be used by graduate and undergraduate students in the pursuit of their respective research projects. Application received by Commissioner of Customs April 19, 1973.

Docket No. 73-00521-99-03400. Applicant: Superior Audio Rehabilitation

Corp., 823 Belknap Street, Superior, Wis. 54880. Article: Auditory training unit consisting of one each, selective auditory filter amplifier, friction indicator, set of 10 vibrators, selector and intensity indicator. Manufacturer: Institute for Experimental Phonetics and Speech Pathology, Yugoslavia. Intended use of article: The article is intended to be used for intensive group and individual training in the language and communication classes for the deaf and hard-of-hearing children (kindergarten through ninth grade). Application received by Commissioner of Customs May 11, 1973.

Docket No. 73-00525-33-46070. Applicant: Hofstra University, Hempstead Turnpike, Hempstead, N.Y. 11550. Article: Scanning electron microscope, model HHS-2R. Manufacturer: Hitachi Perkin-Elmer, Japan. Intended use of article: The article is intended to be used in a wide range of biological research projects which include the following:

(a) The growth and differentiation of rhizoids from germinating fern spores and their loss of photosynthetic ability;

(b) Studies of chromosome structure and overall morphology;

(c) Investigation of an interesting and unique relationship between a protozoan and the teeth of a certain bat;

(d) Study to determine the relationship between the growth rings of fish and changes in environmental conditions, temperature, food, etc.;

(e) Studies to determine whether fish species can be accurately determined by means of their scales, similar to the manner in which plants can be identified from their pollen;

(f) Research on fungal parasites of algae; and

(g) Experimental analysis using the ciliate, Oxytricha, to determine the development of various cortical features in relation to the localization and operation of the parts of the cell.

The article will also be used to prepare undergraduate and graduate students to use the scanning electron microscope in their future research or in laboratory positions in academic, governmental, or industrial areas. Application received by Commissioner of Customs: May 15, 1973.

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

[FR Doc.73-11232 Filed 6-5-73;8:45 am]

UNIVERSITY OF SCRANTON

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket No. 73-00405-33-46500. Applicant: University of Scranton, Monroe Avenue, Scranton, Pa. 18510. Article: Ultramicrotome, model LKB 8200A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to prepare specimens for study with the electron microscope. The particular biology courses that will require the use of this article are: Plant taxonomy, plant morphology, cellular biology, phycology, and mycology. A course in the theory and use of the electron microscope is also planned for which the article will be required. Application received by Commissioner of Customs: March 5, 1973.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with prior case (docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section." In connection with another prior case (docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 mm/s. The most closely comparable domestic instrument is the model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm/s. We are advised by HEW in its memorandum of May 16, 1973, that cutting speeds in the excess of 4 mm/s are pertinent to the applicant's research studies.

We therefore, find that the model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

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

[FR Doc.73-11233 Filed 6-5-73;8:45 am]

Office of the Secretary

IMPORTERS' TEXTILE ADVISORY COMMITTEE

Notice of Public Meeting

The Importers' Textile Advisory Committee will meet at 2 p.m. on June 13, 1973, in room 4833, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

The committee, which is comprised of 11 members representing importing firms and a trade association, advises Department officials of the effects on import markets of the cotton, wool and man-made fiber textile agreements.

The agenda for the meeting is as follows:

1. Review of import trends.
2. Report on conditions in the domestic market.
3. Implementation of textile agreements.
4. Other business.

A limited number of seats will be available to the public. The public will be permitted to file written statements with the committee before or after the meeting. To the extent time is available at the end of the meeting, the presentation of oral statements will be allowed.

Further information concerning the committee may be obtained from Arthur Garel, Director, Office of Textiles, Main Commerce Building, U.S. Department of Commerce, Washington, D.C. 20230.

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.73-11224 Filed 6-5-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

NATIONAL ADVISORY EYE COUNCIL

Notice of Subcommittee Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Research Subcommittee of the National Advisory Eye Council, National Eye Institute, on June 13, 1973, 7 p.m., National Institutes of Health, Building 31, Conference Room 7. This meeting will be open to the public from 7 p.m. to 8 p.m. on June 13, for discussion on revised guidelines for clinical research center grants. The meeting will be closed to the public from 8 p.m. to 10:30 p.m. for the review of grant applications designated as "specials" by National Eye

Institute staff in accordance with the provisions set forth in section 552(b) 4 of title 5 United States Code, and 10(d) of Public Law 92-463. Attendance by the public will be limited to space available.

Mr. Julian Morris, Information Officer, NEI, Building 31, room 6A-27, National Institutes of Health, 496-5248, will furnish summaries of the meeting and rosters of Council members. Substantive program information may also be obtained from Dr. George T. Brooks, Associate Director for Extramural and Collaborative Programs, National Eye Institute, Building 31, room 6A-04, National Institutes of Health, 496-4903.

(Catalog of Federal Domestic Assistance Program No. 13.331, National Institutes of Health.)

JUNE 1, 1973.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

[FR Doc.73-11335 Filed 6-5-73;8:45 am]

NATIONAL CANCER ADVISORY BOARD

Notice of Subcommittee Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Subcommittee on Carcinogenesis and Prevention of the National Cancer Advisory Board, National Cancer Institute, June 18, 1973, at 9 a.m., National Institutes of Health, Building 31, conference room 2. This meeting will be open to the public from 9 a.m. to 9:30 a.m., for discussions of any new policy considerations involving the National Cancer Program and closed from 9:30 a.m., until adjournment for discussion and review of approximately 25 grants in the field of fundamental research in accordance with the provisions set forth in section 552(b)4 of title 5 United States Code and section 10(d) of Public Law 92-463. Attendance by the public will be limited to space available.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31 room 10A31, National Institutes of Health, Bethesda, Md. 20014 (301-496-1911) will furnish summaries of the open/closed meeting and roster of committee members.

Dr. John Kalberer, Jr., Special Assistant to the Director, Division of Cancer Grants, NCI, Building 31, room 10A06, National Institutes of Health, Bethesda, Md. 20014 (301-496-5147) will provide substantive program information.

(Catalog of Federal Domestic Assistant Program Nos. 13.311-315, 13.373, and 13.391-393, National Institutes of Health.)

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

JUNE 1, 1973.

[FR Doc.73-11337 Filed 6-5-73;8:45 am]

NATIONAL CANCER ADVISORY BOARD

Notice of Subcommittee Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Subcommittee on Diagnosis and Treatment of the National Cancer Advisory Board, National Cancer Institute, June 18, 1973 at 9 a.m., National Institutes of Health, Building 31, conference room 3. This meeting will be open to the public from 9 a.m. to 9:30 a.m., for discussions of any new policy considerations involving the National Cancer Program and closed from 9:30 a.m. until adjournment for discussion and review of approximately 25 grants in the field of clinical research in accordance with the provisions set forth in section 552(b)4 of title 5 United States Code and section 10(d) of Public Law 92-463. Attendance by the public will be limited to space available.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, room 10A31, National Institutes of Health, Bethesda, Md. 20014 (301-496-1911) will furnish summaries of the open/closed meeting and roster of committee members.

Dr. John T. Kalberer, Jr., Special Assistant to the Director, Division of Cancer Grants, NCI, Building 31, room 10A06, National Institutes of Health, Bethesda, Md. 20014 (301-496-5147) will provide substantive program information.

(Catalog of Federal Domestic Assistant Program Nos. 13.311-315, 13.373, and 13.391-393, National Institutes of Health.)

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

JUNE 1, 1973.

[FR Doc.73-11336 Filed 6-5-73;8:45 am]

Office of Education

EMERGENCY SCHOOL AID

Notice of Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), that the National Advisory Council on Equality of Educational Opportunity will meet from 1 p.m. until 5 p.m. Thursday, July 12, 1973; from 9 a.m. until 4 p.m. on Friday, July 13, 1973 and from 9 a.m. until 12 noon on Saturday, July 14, 1973. The meetings will be held at Kah Nee Tah, Warm Springs Indian Reservation, Oreg.

The National Advisory Council on Equality of Educational Opportunity is established under section 716 of the Emergency School Aid Act (Public Law 92-318, title VII). The Council is established to advise the Assistant Secretary for Education with respect to the operation of programs under the act, and to review the operation of such programs.

The meeting of the Council shall be open to the public. The proposed agenda includes a review and approval of subcommittees I and II reports, a report from the Office of Education on funded Emergency School Aid Act projects, and other items charged to the Council.

Signed at Washington, D.C., on June 1, 1973.

HERMAN R. GOLDBERG,
Associate Commissioner, Bureau of Equal Educational Opportunity.

[FR Doc.73-11274 Filed 6-5-73;8:45 am]

Office of the Secretary

COMMISSIONER OF FOOD AND DRUGS

Deletion of Certain Delegated Authorities

The Consumer Product Safety Act (Public Law 92-573) established a Consumer Product Safety Commission and transferred the functions of the Secretary of the Department of Health, Education, and Welfare under the Poison Prevention Packaging Act of 1970, the Federal Hazardous Substances Act, the Flammable Fabrics Act, and those sections of the Federal Food, Drug, and Cosmetic Act as amended by the Poison Prevention Packaging Act of 1970 to the Commission.

Therefore, the redelegation of authority notice, Authority Under the Poison Prevention Packaging Act of 1970 published in the FEDERAL REGISTER of June 18, 1971 (36 FR 11770), delegating authority under the act to the Commissioner of Food and Drugs; and that portion of the notice, Redelegation by the Assistant Secretary for Health and Scientific Affairs published in the FEDERAL REGISTER of January 16, 1970 (35 FR 606-607 as amended) delegating authority under the Federal Hazardous Substances Act and the Flammable Fabrics Act to the Commissioner of Food and Drugs have been deleted by the Assistant Secretary for Health.

Effective date.—May 25, 1973.

S. H. CLARKE,
Acting Assistant Secretary for Administration and Management.

[FR Doc.73-11287 Filed 6-5-73;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N-73-155; Administrative Division Docket No. 73-34]

BEACHES OF NOSARA SUBDIVISION ET AL.

Notice of Hearing

Notice is hereby given that:

1. Inversiones Nicoya, S.A., 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 proceedings and opportunity for hearing dated May 3, 1973, which was sent to the developer pursuant to 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1) informing the developer of information obtained by the Office of Interstate Land Sales Registration showing that a change had occurred which affected material facts in the developer's statement of record for Beaches of Nosara and the failure of the developer to amend the pertinent sections of the statement of record and property report.

2. The Respondent filed an answer to the allegations of the notice of proceedings and opportunity for a hearing on May 10, 1973.

3. In said answer the Respondent requested a hearing on the allegations contained in the notice of proceedings and opportunity for a hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(b): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the notice of proceedings and opportunity for hearing will be held before Administrative Law Judge Arnold Ordman, in room 2151, Department of HUD Building, 451 Seventh Street SW., Washington, D.C., on June 13, 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 June 11, 1973.

5. The Respondent is hereby notified that failure to appear at the above-scheduled hearing shall be deemed a default and the proceeding shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order suspending the statement of record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated May 31, 1973.

By the Secretary.

GEORGE K. BERNSTEIN,
Interstate Land Sales Administrator.

[FR Doc.73-11315 Filed 6-5-73;8:45 am]

[Docket No. N-73-156; Administrative Division Docket No. 73-30]

BUNKER HILL HEIGHTS, ET AL.

Notice of Hearing

Notice is hereby given that:

1. Price-Radin Associates, Inc./First American Land Corp., Martin Price, president, 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 proceedings and opportunity for hearing dated April 19, 1973, which was sent to the developer pursuant to 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1), informing the developer of information obtained by the Office of Interstate Land Sales Registration showing that a change had occurred which affected material facts in the developer's statement of record for Bunker Hill Heights and the failure of the developer to amend the pertinent sections of the statement of record and property report.

2. The Respondent filed an answer postmarked May 7, 1973, in answer to the allegations of the notice of proceedings and opportunity for a hearing.

3. In said answer the Respondent requested a hearing on the allegations contained in the notice of proceedings and opportunity for a hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(b): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the notice of proceedings and opportunity for hearing will be held before Administrative Law Judge Ordman, in room 2151, Department of HUD Building, 451 Seventh Street SW., Washington, D.C., on June 13, 1973, at 2 p.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. 20419, on or before June 6, 1973.

5. The Respondent is hereby notified that failure to appear at the above-scheduled hearing shall be deemed a default and the proceeding shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order suspending the statement of record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated May 31, 1973.

By the Secretary.

GEORGE K. BERNSTEIN,
Interstate Land Sales Administrator.

[FR Doc.73-11314 Filed 6-5-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AIR TRAFFIC CONTROL AND AIR NAVIGATION FACILITIES ON WAKE ISLAND

Notice of Decommissioning

Notice is hereby given that the Instrument Landing System located on Wake Island was decommissioned on April 26, 1973, and that each of the following air traffic control facilities and air navigational aids located on Wake Island will be decommissioned on the date indicated thereafter:

1. Air traffic control tower—May 31, 1973.
2. Nondirectional beacon—June 30, 1973.
3. VORTAC (collocated VHF omnirange station and UHF tactical air navigational aid)—June 30, 1973.

Accordingly, the Instrument Landing System is no longer available for use by the public, and those services currently provided by the Federal Aviation Administration in connection with its operation of the three above-listed facilities will no longer be provided after the dates shown.

Dated May 24, 1973.

ALEXANDER P. BUTTERFIELD,
Administrator,
Federal Aviation Administration.

[FR Doc.73-11216 Filed 6-5-73;8:45 am]

Federal Highway Administration

NEVADA

Notice of Proposed Action Plan

The Nevada Department of Highways has submitted to the Federal Highway Administration of the U.S. Department of Transportation a proposed action plan as required by policy and procedure memorandum 90-4 issued on September 21, 1972. The action plan outlines the organizational relationships, the assignments of responsibility, and the procedures to be used by the State to assure that economic, social, and environmental effects are fully considered in the development of highway projects and that highway project decisions are made in the best overall public interest considering (1) the needs of fast, safe, and efficient transportation; (2) public services; and (3) adverse impacts.

The proposed action plan is available for public review at the following locations:

1. State of Nevada, Department of Highways, Administration Building, room 114, 1263 South Stewart Street, Carson City, Nev. 89701.
2. U.S. Department of Transportation, Federal Highway Administration, Nevada Division, 106 East Adams Street, Carson City, Nev. 89701.
3. U.S. Department of Transportation, Federal Highway Administration, Region 9, Federal Building, room 7740, 450 Golden Gate Avenue, Box 36096, San Francisco, Calif. 94102.
4. U.S. Department of Transportation, Federal Highway Administration, Environmental Development Division, Nassif Building, room 3246, 400 Seventh Street SW., Washington, D.C. 20590.

Comments from interested groups and the public on the proposed Action Plan are invited. Comments should be sent to the FHWA region office shown above before June 22, 1973.

Issued on May 17, 1973.

M. M. BARTELSMEYER,
Acting Federal Highway Administrator.

[FR Doc.73-11268 Filed 6-5-73;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-247]

CONSOLIDATED EDISON CO. OF NEW YORK, INC.

Order Designating Date and Place for Oral Argument

On April 26, 1973, at a session of evidentiary hearings in this proceeding, the Atomic Safety and Licensing Board considered with the parties and thereafter ordered that an oral argument should be convened, at a date and place later to be designated, after the completion of the submittal and filing of proposed findings and conclusions.

Wherefore, it is ordered, In accordance with the Atomic Energy Act, as amended, and the rules of practice of the Commission, that oral argument shall be had in this proceeding respecting the contentions of the parties, together with their proposed findings and conclusions, and the session of this proceeding for the oral argument shall convene at 9 a.m. on Monday, July 2, 1973, at courtroom 2106, U.S. District Court, Third and Constitution Avenue NW., Washington, D.C.

Issued May 31, 1973, Germantown, Md.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[FR Doc.73-11227 Filed 6-5-73;8:45 am]

[Dockets Nos. 50-416A, 50-417A]

MISSISSIPPI POWER & LIGHT CO.

Notice of Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, a letter of advice from the Attorney General of the United States, dated May 24, 1973, a copy of which is set forth below as appendix A below. Attached below as appendix B is the letter of the applicant which includes applicant's commitments.

Any person whose interest may be affected by this proceeding may, pursuant to § 2.714 of the Commission's rules of practice, 10 CFR part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed on or before July 6, 1973, either (1) by delivery to the AEC Public Document Room at 1717 H Street NW., Washington, D.C., or (2) by mail or telegram addressed to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, attention: Chief, Public Proceedings Branch.

For the Atomic Energy Commission.

ABRAHAM BRAITMAN,
Chief, Office of Antitrust and Indemnity, Directorate of Licensing.

APPENDIX A

MISSISSIPPI POWER & LIGHT CO. GRAND GULF NUCLEAR STATION UNITS 1 AND 2

[AEC DOCKETS NOS 50-416A AND 50-417A; DEPARTMENT OF JUSTICE FILE 60-415-57]

MAY 24, 1973.

You have requested our advice pursuant to the provisions of section 105 of the Atomic Energy Act of 1954, as amended by Public Law 91-560, in regard to the above-captioned application.

Mississippi Power & Light Co. (Applicant) has applied for a construction permit for its Grand Gulf Nuclear Station, Units 1 and 2. The facility will be located in Claibourn County, Miss. near the Mississippi River. Operation of unit 1 has been scheduled for July 1979, with unit 2 following in January 1981.

Applicant.—Mississippi Power & Light has generation, transmission, and distribution facilities providing retail electrical service to 485 communities and wholesale electric service to 6 municipalities and 8 rural electric cooperatives located in the western half of the State of Mississippi. Applicant serves some 240,578 customers through lines consisting of 12,027 pole miles of subtransmission and distribution lines, 209 cable miles of underground distribution lines, and 2,270 miles of 115 kv or above transmission lines. For the year ending October 31, 1972, Applicant had total energy sales of 7,701,278 MWh of which 7,177,132 MWh were generated by the 1,622 MW available dependable capacity [1] provided by its four thermal generating plants.[2]

Interconnection and coordination with others.—Applicant is an operating subsidiary of Middle South Utilities, Inc., a registered holding company under the Public Utility Holding Company Act. The other operating subsidiaries of the Middle South System are: Arkansas Power & Light Co.; Louisiana Power & Light Co.; New Orleans Public Service, Inc.; and Arkansas-Missouri Power Co. In 1972 the peak load for the Middle South System was 8,322 MW, and it had a total dependable capacity of 9,727 MW, including 1,419 MW of firm power available under contracts. From an operational standpoint, each subsidiary comprising the Middle South System constitutes a component of a totally integrated bulk power system. A central dispatcher controls all the facilities in the Middle South System and from moment to moment satisfies the system's demand by supplying energy available on the Middle South System on the basis of incremental generation and transmission cost. Generating reserve requirements are established for the system as a whole, and reserves are available to each subsidiary without restriction to meet any contingency on the Middle South System. Comprehensive coordinated planning of generation, transmission and interconnection of the integrated system with its large load enables each subsidiary to achieve the benefit of economies of scale. The principal mechanism used is the staggered construction of generation facilities with concomitant short-term sales of surplus power and purchases of deficiency power.

Applicant and its affiliates (excepting Arkansas-Missouri Power Co.), together with seven other privately owned public utilities operating in South Central United States have formed the South Central Electric Co.'s for purposes of entering into mutually beneficial bulk power arrangements with the Tennessee Valley Authority. This contractual arrangement provides for coordinated planning, joint studies on load growth and location of future facilities, and coordinated maintenance schedules. Under the contract between TVA and the association members, schedules are provided for economy energy sales, firm power purchases, emergency services and deferred diversity capacity. The most important item is the exchange of 1,500 MW of capacity made available by the seasonal diversity of load. Under the exchange the Middle South System receives 455 MW from TVA during its summer peak, of which Applicant takes 92 MW.

Applicant is a member of the Southwest Power Pool, a regional coordinating and planning group (not an operating pool). The Southwest Power Pool is composed of 31 electrical systems, including investor-owned companies, rural electric cooperatives and municipal systems.

In addition to its direct interconnection with TVA, Applicant is directly interconnected with Mississippi Power Co.[3] Mississippi Power Co. is an operating subsidiary of the Southern Co., a registered public utility holding company.[4] This direct interconnection is maintained pursuant to a reliability arrangement between the Southern System (the Southern Co.) and the Middle South System.

Structure of the bulk power market in Mississippi.—In terms of bulk power supply, the State of Mississippi may be divided roughly into three areas: The northeast quarter served by TVA, the southeast quarter served by Mississippi Power Co. and South Mississippi Electric Power Association, and the western half principally served by Applicant. TVA sells bulk power to a number of independent distributing rural electric cooperatives in northeast Mississippi. (The TVA Revenue Bond Act of 1959, 73 Stat. 280, 16 U.S.C. 831N-4 prohibits TVA from selling or interchanging power with any electrical system to which it did not provide services prior to enactment of the act.)

Mississippi Power Co. supplies both wholesale and retail customers in southeast Mississippi. In 1972 it had a generating capacity of 1,030 MW with a peak load of 966 MW.

The generation and transmission facilities of South Mississippi Electric Power Association (SMEPA) are located essentially in southeastern Mississippi, although some transmission lines are within some of the easternmost counties of Mississippi served by Applicant. SMEPA was organized in 1941 by a number of distribution rural electric cooperatives in south Mississippi and adjacent Louisiana to provide a more reliable and economic source of power. SMEPA was not able to begin operation until 1971, and

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[1] In 1972 Applicant owned a generation capacity of 1,785 MW of which 163 MW's were committed to other affiliates in order to obtain the separate load/capacity ratio required to be maintained by each operating company in the Middle South System.

[2] Applicant has no hydroelectric facilities; Grand Gulf will be its first nuclear generation.

[3] For the primary purpose of facilitating the exchange of power between TVA and Gulf States Utilities, Inc., Applicant has a direct 500 kV interconnection with Gulf States.

[4] For a detailed discussion of the Southern Co. System please refer to our letter of advice of Aug. 16, 1972, on the Alabama Power Co., AEC Dockets Nos. 50-348 and 50-364, and our letter of advice of Aug. 2, 1972, on the Georgia Power Co., AEC Docket No. 50-366.

its members now consist of six rural electric cooperatives located in south Mississippi. Three members of SMEPA, Magnolia EPA, Southwest Mississippi EPA, and Southern Pine EPA, are located in southwest Mississippi, which Applicant serves. Applicant continues to supply power to those distributing members of SMEPA in Applicant's area, although SMEPA acts as a purchasing agent.

There are three municipally owned generation and distribution systems in Applicant's area. Greenwood has a total generating capacity of 67 MW, Clarksdale has 68 MW, and Yazoo City has 31.5 MW. Only Yazoo City has an interconnection with Applicant, under which it purchases economy and emergency power. Both Yazoo City and Greenwood are connected to adjacent rural electric cooperatives to whom each wholesales a small amount of power. Clarksdale operates completely isolated.

Results of antitrust review.—As noted above, Applicant is the dominant bulk power supplier in western Mississippi and owns and controls virtually all the transmission facilities in the area. In the course of our antitrust review, certain allegations were received, the general import of which was that Applicant has misused its monopoly position in generation and transmission to restrain the competitive opportunities of smaller systems in western Mississippi. For its part, Applicant denied that its policies and practices have been or are inconsistent with the antitrust laws. However, in order to eliminate any questions as to the policies that it intends to follow during the period of the Grand Gulf license, Applicant indicated its willingness to formalize these policies and to have them included as conditions to the license. As a result of discussions with the Department, these policies have been articulated and are set out in the attachment to the letter of Applicant's president to the Department, dated May 22, 1973, which is attached hereto.

In its commitments, Applicant affirms that it will make the following type of arrangements with other bulk power suppliers in western Mississippi: access to the Grand Gulf nuclear units; coordination and sharing of reserves; unit power sales and purchases which would reduce costs for the parties; and transmission services over its facilities. In our opinion, these should provide competitors of Applicant with competitive, alternative bulk power supply sources and substantially eliminate the grounds on which complaints made to the Department by the smaller systems were based. On the strength of these policy commitments, and with the expectation that the Commission will include them as conditions to the license, we conclude that an antitrust hearing will not be necessary with respect to the instant application.

APPENDIX B

MISSISSIPPI POWER & LIGHT CO. (APPLICANT) GRAND GULF NUCLEAR STATION, UNITS 1 AND 2 [AEC DOCKET NUMBERS 50-416A AND 50-417A; DEPARTMENT OF JUSTICE FILE 60-415-37]

Attached to this letter are commitments of Mississippi Power & Light Co., the applicant in the above styled and numbered cause, which we agree may be included as conditions to the construction permit and operating license to be issued by the Atomic Energy Commission in connection with the above-referenced application. These commitments represent a statement of policy for the future direction of Mississippi Power & Light Co., and are made with the understanding that the Department of Justice will recommend to the Atomic Energy Commission that no antitrust hearing will be required.

The commitments herein made are subject to the following understandings:

(1) Applicant does not intend by these commitments to become a common carrier.

(2) Applicant reserves all rights and protection afforded it by law with respect to retail distribution of electricity in those areas in western Mississippi for which it holds a certificate of Public convenience and necessity from the Mississippi Public Service Commission.

(3) A major portion of western Mississippi constitutes the exclusive retail service area of a number of distributing electric power associations and municipal distributors and nothing contained herein should be construed to change or disturb in any respect the retail service areas of other entities.

(4) Mississippi Power & Light Co. and the Middle South System have a policy, which is expected to continue, of locating new generating capacity generally in accordance with the demand in the respective regions served by operating companies making up the overall system.

(5) All of the understandings and commitments of the applicant are contained in the commitments herein made and this cover letter.

(6) None of the commitments herein made shall be construed as a waiver by applicant of its rights to contest whether or not a future factual situation is inconsistent with the commitments herein made.

POLICY COMMITMENTS OF MISSISSIPPI POWER & LIGHT CO. TO BE APPENDED AS CONDITIONS TO GRAND GULF NUCLEAR UNITS NO. 1 AND NO. 2 AEC LICENSE AEC DOCKETS NOS. 50-416A AND 50-417A

MAY 22, 1973.

1. As used herein:

(a) "Western Mississippi Area" means the counties of: Walthall, Lawrence, Jefferson Davis, Covington, Simpson, Smith, Scott, Leake, Attala, Choctaw, Montgomery, Grenada, Yalobusha, Panola, Tate, DeSoto, Pike, Amite, Wilkinson, Adams, Franklin, Lincoln, Copiah, Jefferson, Claiborne, Hinds, Rankin, Madison, Yazoo, Warren, Issaquena, Sharkey, Humphreys, Holmes, Carroll, Leflore, Sunflower, Washington, Bolivar, Tallahatchie, Quitman, Coahoma, and Tunica. An entity shall be deemed to be in the "Western Mississippi Area" if it has electric power generation, transmission or distribution facilities located in whole or in part in the above-described area.

(b) "Bulk Power" means the electric power, and any attendant energy, supplied or made available at transmission or subtransmission voltage by one entity to another.

(c) "Entity" means person, a private or public corporation, a municipality, a cooperative, an association, a joint stock association, or business trust owning, operating, or proposing to own or operate equipment or facilities for the generation, transmission, or distribution of electricity: *Provided*, That, except for municipalities or rural electric cooperative, "entity" is restricted to those which are or will be public utilities under the laws of the State in which the entity transacts or will transact business or under the Federal Power Act, and are or will be providing electric service under a contract or rate schedule on file with and subject to the regulation of a State regulatory commission or the Federal Power Commission.

(d) "Cost" means any operating and maintenance expenses involved together with any ownership costs which are reasonably allocable to the transaction consistent with power pooling practices (where applicable). No value shall be included for loss of revenues from sale of power at wholesale or retail by one party to a customer which another party might otherwise serve. Cost shall include a reasonable return on applicant's investment. The sale of a portion of the capacity of a generating unit shall be upon the basis of a rate that will recover to the seller the pro rata part of the fixed costs and operating and maintenance expenses of the unit: *Provided*, That, in circumstances in which applicant and one or more entities in the western Mississippi area take an undivided interest in a unit in fee, construction costs and operation and maintenance expenses shall be paid pro rata.

2. (a) Applicant shall interconnect with and coordinate reserves by means of the sale and purchase of emergency and/or scheduled maintenance bulk power with any entity(ies) in the western Mississippi area engaging in or proposing to engage in electric bulk power supply on terms that will provide for applicant's costs in connection therewith and allow the other party(ies) full access to the benefits of reserve coordination.

(b) Emergency service and/or scheduled maintenance service to be provided by each party shall be furnished to the fullest extent available from the supplying party and desired by the party in need. Applicant and each party(ies) shall provide to the other emergency service and/or scheduled maintenance service if and when available from its own generation and from generation of others to the extent it can do so without impairing service to its customers including other electric systems to whom it has firm commitments.

(c) Applicant and the other party(ies) to a reserve sharing arrangement shall from time to time jointly establish the minimum reserves to be installed and/or provided under contractual arrangements as necessary to maintain in total a reserve margin sufficient to provide adequate reliability of power supply to the interconnected systems of the parties. If applicant plans its reserve margin on a pooled basis with other Middle South System companies, the reserves jointly established hereunder shall be on the same basis. Unless otherwise agreed upon, minimum reserves shall be calculated as a percentage of estimated peak load responsibility.

No party to the arrangement shall be required to maintain greater reserves than the percentage of its estimated peak load responsibility which results from the aforesaid calculation: *Provided*, That, if the reserve requirements of applicant are increased over the amount applicant would be required to maintain without such interconnection, then the other party(ies) shall be required to carry or provide for as its (their) reserves the full amount in kilowatts of such increase.

(d) The parties to such a reserve sharing arrangement shall provide such amounts of ready reserve capacity as may be adequate to avoid the imposition of unreasonable demands on the other in meeting the normal contingencies of operating its system. However, in no circumstances shall the ready reserve requirement exceed the installed reserve requirement.

(e) Interconnections will not be limited to low voltages when higher voltages are available from applicant's installed facilities in the area where interconnection is desired, when the proposed arrangement is found to be technically and economically feasible. Control and telemetering facilities shall be provided as required for safe and prudent operation of the interconnected systems.

(f) Interconnection and coordination agreements shall not embody any restrictive provisions pertaining to intersystem coordination. Good industry practice as developed in the area from time to time (if no restrictive) will satisfy this provision.

3. Applicant will sell bulk power at its costs to or purchase bulk power from any other entity(ies) in the western Mississippi area engaging in or proposing to engage in generation of electric power when such transactions would serve to reduce the overall

costs of new-bulk power supply for itself or for the other party(ies) to the transaction. This refers specifically to the opportunity to coordinate in the planning of new generation, transmission, and related facilities. This provision shall not be construed to require applicant to purchase or sell bulk power if it finds such purchase or sale infeasible or its costs in connection with such purchase or sale would exceed its benefits therefrom.

4. (a) Applicant and any successor in title shall offer an opportunity to participate in the Grand Gulf nuclear units and any other nuclear generating unit(s) which they or either of them, may construct, own, and operate in the State of Mississippi, severally or jointly, during the term of the instant license, or any extension or renewal thereof, to any entity(ies) in the western Mississippi area by either a reasonable ownership interest in such unit(s), or by a contractual right to purchase a reasonable portion of the output of such unit(s) at the cost thereof if the entity(ies) so elects. In connection with such access, applicant will also offer transmission service as may be required for delivery of such power to such entity(ies) on a basis that will fully compensate applicant for its cost.

(b) In the event that during the term of the instant license, or any extension or renewal thereof, applicant obtains participation in the ownership of or rights to a portion of the output of one or more nuclear generating units constructed, owned, and operated by any affiliate or subsidiary of the Middle South Utilities System other than applicant or by any successor in title to the Grand Gulf Nuclear Units, applicant shall exert its best efforts to obtain participation in such nuclear unit(s) by any entity(ies) in the western Mississippi area requesting such participation on terms no less favorable than the terms of applicant's participation therein.

5. (a) Applicant shall facilitate the exchange of bulk power by transmission over its transmission facilities between or among two or more entities in the western Mississippi area with which it is interconnected; and between any such entity(ies) and any entity(ies) engaging in bulk power supply outside the western Mississippi area between whose facilities applicant's transmission lines and other transmission lines would form a continuous electrical path: *Provided*, That: (1) Permission to utilize such other transmission lines has been obtained, and (2) the arrangements reasonably can be accommodated from a functional and technical standpoint. Such transmission shall be on terms that fully compensate applicant for its cost. Any entity(ies) requesting such transmission arrangements shall give reasonable advance notice of its (their) schedule and requirements. (The foregoing applies to any entity(ies) to which applicant may be interconnected in the future as well as those to which it is now interconnected.)

(b) Applicant shall include in its planning and construction program sufficient transmission capacity as required for the transactions referred to in subparagraph (a) of this paragraph: *Provided*, That any entity (ies) in the western Mississippi area give applicant sufficient advance notice as may be necessary to accommodate its (their) requirements from a functional and technical standpoint and that such entity(ies) fully compensates applicant for its cost. Applicant shall not be required to construct transmission facilities which will be of no demonstrable present or future benefit to applicant.

6. Applicant will sell power for resale to any entity(ies) in the western Mississippi area now engaging in or proposing to engage in retail distribution of electric power.

7. The foregoing conditions shall be implemented in a manner consistent with the provisions of the Federal Power Act and the Mississippi Public Utilities Act of 1956 and all rates, charges or practices in connection therewith are to be subject to the approval of regulatory agencies having jurisdiction over them.

[FR Doc.73-11226 Filed 6-5-73;8:45 am]

[Docket No. PRM-30-54]

RAY BURNER CO.

Notice of Filing of Petition for Rulemaking

Notice is hereby given that the Ray Burner Co., 1301 San Jose Avenue, San Francisco, Calif., by letter dated May 18, 1973, has filed with the Atomic Energy Commission a petition for rulemaking. The petitioner requests that the Commission amend 10 CFR 30.15 of its regulations to exempt from licensing requirements spark gap irradiators containing not more than 1 μCi of cobalt-60 in plated or alloy form for attachment near spark gaps used for such purposes as electric ignitors (spark plugs) for fuel burning equipment.

The petitioner states that the device has been used for a number of years and is of definite benefit in electrically ignited fuel oil burners to enhance the reliability and safety during the ignition sequence of such burners on many types of boilers, powerplants, etc. The petitioner states further that the spark gap irradiator is not, in this instance, used in internal combustion engines.

A copy of the petition for rulemaking is available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the petition may be obtained by writing the Rules and Proceedings Branch at the below address.

All interested persons who desire to submit written comments or suggestions concerning the petition for rulemaking should send their comments to the Rules and Proceedings Branch, Office of Administration—Regulation U.S. Atomic Energy Commission, Washington, D.C. 20545, on or before August 6, 1973.

Dated at Germantown, Md., this 31st day of May 1973.

For the Atomic Energy Commission.

GORDON M. GRANT,
Acting Secretary of the Commission.

[FR Doc.73-11225 Filed 6-5-73;8:45 am]

RESEARCH AND TEST REACTOR GUIDES

Notice of Issuance and Availability

The Atomic Energy Commission has issued a guide in its regulatory guide series. This series has been developed to describe and make available to the public methods acceptable to the AEC regulatory staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The new guide is in Division 2, "Research and Test Reactor Guides." Regulatory Guide 2.1, "Shield Test Program for Evaluation of Installed Biological Shielding in Research and Training Reactors," describes a shield test program that is generally acceptable for evaluation of installed biological shielding in research and training reactors.

Comments and suggestions in connection with improvements in regulatory guides are encouraged and should be sent to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, attention: Chief, Public Proceedings Staff. Requests for single copies of issued guides or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director of Regulatory Standards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Telephone requests cannot be accommodated. Regulatory Guides are not copyrighted and Commission approval is not required to reproduce them.

Other Division 2 Regulatory Guides currently being developed include the following: Development of Safety Envelopes for Experiments in Research Reactors.

(5 U.S.C. 552(a).)

Dated at Bethesda, Md., this 29th day of May 1973.

For the Atomic Energy Commission.

LESTER ROGERS,
Director of Regulatory Standards.

[FR Doc.73-11228 Filed 6-5-73;8:45 am]

POWER REACTOR GUIDES

Notice of Issuance and Availability

The Atomic Energy Commission has issued two guides in its regulatory guide series. This series has been developed to describe and make available to the public methods acceptable to the AEC regulatory staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The new guides are in division 1, "Power Reactor Guides." Regulatory Guide 1.50, "Control of Preheat Temperature for Welding of Low-Alloy Steel," describes an acceptable method for implementing the Commission's regulations with regard to the control of welding for low-alloy steel components. Regulatory Guide 1.51, "Inservice Inspection of ASME Code Class 2 and 3 Nuclear Power Plant Components," describes acceptable methods of implementing the periodic inservice inspection requirements for ASME class 2 and 3 components.

Comments and suggestions in connection with improvements in regulatory guides are encouraged and should be sent to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, attention: Chief, Public Procedings Staff. Requests for single copies of issued guides or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director of Regulatory Standards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted and Commission approval is not required to reproduce them.

Other division 1 regulatory guides currently being developed include the following:

Availability of electric power sources.
Requirements for instrumentation to assess nuclear power plant conditions during and following an accident for water-cooled reactors.
Shared emergency and shutdown power systems at multiunit sites.
Physical independence of safety related electric systems.
Isolating low pressure systems connected to the reactor coolant pressure boundary.
Assumptions for evaluating a control rod ejection accident for pressurized water reactors.
Assumptions for evaluating a control rod drop accident for boiling water reactors.
Requirements for collection, storage, and maintenance of quality assurance records for nuclear power plants.
Requirements for assessing ability of material underneath nuclear power plant foundations to withstand safe shutdown earthquake.
Design basis floods for nuclear power plants.
Design phase quality assurance requirements for nuclear power plants.
Qualification tests of electric valve operators for use in nuclear power plants.
Fire protection criteria for nuclear power plants.
Protective coatings for nuclear reactor containment facilities.
Quality assurance requirements for protective coatings applied to water-cooled nuclear power plants.
Application of the single failure criterion to nuclear power generating station protective systems.
Additional material requirements for bolting.
Inservice surveillance of grouted prestressing tendons.
Design loading combinations for primary metal containment systems.
Concrete placement in category I structures.
Design response spectra for seismic design of nuclear power plants.
Seismic input motion to uncoupled structural model.
Primary reactor containment (concrete) design and analysis.
Preservice testing of in-situ components.
Installation of overpressure devices.
Nondestructive examination of tubular products.
Category I structural foundations.
Maintenance of water purity in BWR's.
Manual initiation of protective actions.
Electric penetration assemblies in nuclear power plant containment structures.
Qualifications of inspection, examination, and testing personnel for nuclear power plants.
Quality assurance requirements for installation, inspection, and testing of mechanical equipment and systems.
Quality assurance requirements for installation, inspection, and testing of structural concrete and structural steel.
Design, testing, and maintenance criteria for atmosphere cleanup system air filtration and adsorption units of light-water-cooled nuclear power plants.
Damping values for seismic design of nuclear power plants.
Fracture toughness requirements for vessels under overstress conditions.
Applicability of nickel-base alloys and high alloy steels.
Material limitations for component supports.
Protection against postulated events and accidents outside of containment.

(5 U.S.C. 552(a).)

Dated at Bethesda, Md., this 30th day of May 1973.

For the Atomic Energy Commission.

LESTER ROGERS,
Director of Regulatory Standards.

[FR Doc.73-11281 Filed 6-5-73;8:45 am]

HIGH ENERGY PHYSICS ADVISORY PANEL

Notice of Meeting

JUNE 1, 1973.

On June 20-21, 1973, there will be a meeting of the Atomic Energy Commission's High Energy Physics Advisory Panel at the National Accelerator Laboratory in Batavia, Ill. Below is that portion of the panel's meeting agenda which will be open to the public; practical considerations may dictate alterations in the agenda or schedule.

Wednesday, June 20, 1973

2 p.m.—General presentation by National Accelerator Laboratory staff.
8 p.m.—"Physics in China" (lecture by V. F. Weiskopf; also, a discussion of the outlook in high energy physics led by V. F. Weiskopf with audience participation).

Thursday, June 21, 1973

9 a.m. to 4 p.m.—Discussion of National Accelerator Laboratory program; discussion of physics with heavy ions; report on bubble chamber operations (by C. R. Richardson).

In addition to the above agenda items, the panel will hold executive sessions early Wednesday afternoon, June 20, and late Thursday afternoon, June 21. These executive sessions involving the discussion of tentative agency fiscal plans will be closed to the public under authority of section 10(d) of Public Law 92-463 (the Federal Advisory Committee Act).

The chairman is empowered to conduct the meeting in a manner which, in his judgment, will facilitate the orderly conduct of business. Seating for the public will be available on a first-come-first served basis.

Copies of minutes of the public sessions will be made available for copying, in accordance with Public Law 92-463, on or after July 13, 1973, at the Atomic Energy Commission's public document room, 1717 H Street NW., Washington, D.C., upon payment of all charges required by law.

JOHN V. VINCIGUERRA,
Advisory Committee Management Officer.

[FR Doc.73-11383 Filed 6-5-73;8:45 am]

CIVIL AERONAUTICS BOARD

ILLINOIS COMMUNITY AND CONGRESSIONAL DELEGATION

Notice of Meeting

Notice is hereby given that a meeting with the above representatives will be held on June 7, 1973, at 9:30 a.m. (local time), in room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., to discuss service to Peoria/Rockford, Ill.

Dated at Washington, D.C., June 1, 1973.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.73-11293 Filed 6-5-73;8:45 am]

[Docket No. 25565]

IRAN NATIONAL AIRLINES CORP.

Notice of Prehearing Conference and Hearing Regarding Iran-New York/Detroit/Los Angeles via Intermediate Points

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on June 25, 1973, at 10 a.m. (local time), in room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Joseph L. Fitzmaurice.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement, on, or before June 18, 1973.

Dated at Washington, D.C., June 1, 1973.

[SEAL] ROBERT L. PARK,
Associate Chief Administrative Law Judge.

[FR Doc.73-11292 Filed 6-5-73;8:45 am]

COMMISSION ON CIVIL RIGHTS

ARIZONA STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Arizona State Advisory Committee to this Commission will convene at 4 p.m. on June 8, 1973, in the Blue Room of the Ramada Inn, 41 North First Avenue, Phoenix, Ariz. 85003.

Persons wishing to attend this meeting should contact the committee chairman, or the Mountain States Regional Office of the Commission, room 216, Ross Building, 1726 Champa Street, Denver, Colo. 80202.

The purpose of this meeting shall be to discuss and make plans for State Advisory Committee followup activity to implement the Arizona Southwestern Indian hearing report.

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

Dated at Washington, D.C., May 30, 1973.

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

[FR Doc.73-11271 Filed 6-5-73;8:45 am]

MAINE STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maine State Advisory Committee to this Commission will convene at 7:30 p.m. on June 12, 1973, at the Holiday Inn, Western Avenue, Augusta, Maine 04330.

Persons wishing to attend this meeting should contact the committee chairman, or the Northeastern Regional Office of the Commission in room 1639, 26 Federal Plaza, New York, N.Y. 10007.

The purpose of this meeting shall be to discuss the draft report, and plan followup to the February 7 and 8, 1973, Maine Open Meeting on *Federal Services and the Maine Indian*, and hear reports from all active State Advisory Committee Subcommittees.

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

Dated at Washington, D.C., May 30, 1973.

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

[FR Doc.73-11270 Filed 6-5-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

CABLE TELEVISION TECHNICAL ADVISORY COMMITTEE

Panel 3; Notice of Meeting

MAY 30, 1973.

Panel 3 (Receivers) of the Cable Television Technical Advisory Committee will hold an open meeting on Wednesday, June 27, 1973, at 10 a.m. The meeting will be held in the lower level conference room of the Corporation for Public Broadcasting Building, 888 16th Street NW., Washington, D.C. 20006.

The agenda of the meeting will include:

1. New membership.
2. Draft statement re compatibility.
3. Requests to Panel 2—
a. Clarification.
b. List of parameters.
4. Definition of terms, crossmodulation versus intermodulation.
5. Local oscillator voltage measurements approval.
6. Report on EIA-R4.2 work on direct pickup.
7. Adjacent sound and adjacent chroma measurements.

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

[FR Doc.73-11254 Filed 6-5-73;8:45 am]

[Dockets Nos. 19750-19752; FCC 73-557]

H. & H. BROADCASTING CO. ET AL.

Applications for Construction Permits; Consolidated Hearing

In regards to applications of William K. Hoisington, Allen U. Hollis, doing business as H. & H. Broadcasting Co., Steamboat Springs, Colo., docket No. 19750, file No. BPH-7723; requests: 96.7 MHz, No. 244, 65 W (H. & V.); -1,840 feet; Colorado West Broadcasting, Inc., Steamboat Springs, Colo., docket No. 19751, file No. BPH-7807; requests: 96.7 MHz, No. 244; 3 kW (H. & V.); -574 feet; Big Country Radio, Inc., Steamboat Springs, Colo., docket No. 19752, file No. BPH-7811; requests: 96.7 MHz, No. 244; 60 W (H. & V.); -1,882 feet; for construction permits.

1. The Commission has under consideration the above-captioned applications which are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference. Therefore, a comparative hearing must be held.

2. Data submitted by the applicants indicate that there would be a significant disparity between Colorado West Broadcasting, Inc.'s proposal and those of the other applicants in the size of the areas and populations which would receive service. Therefore, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary (1 mV/m or better for FM) aural services in such areas, will be considered under the standard comparative issue.

3. Each of the applicants is qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

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

1. To determine which of the proposals would best serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications for construction permits should be granted.

5. *It is further ordered*, That whichever application is granted will be subject to the applicant's acceptance of any modification requiring use of a channel other than channel 244A as a result of rulemaking in docket No. 19663.

6. *It is further ordered*, That each of the applicants shall file a written appearance stating an intention to appear and present evidence on the specified issues within the time and in the manner required by § 1.221(c) of our rules.

7. *It is further ordered*, That each applicant shall give notice of the hearing, within the time and in the manner specified in § 1.594 of our rules, and shall seasonably file the statement required by § 1.594(g).

By the Commission.

Adopted: May 23, 1973.

Released: May 30, 1973.

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

[FR Doc.73-11251 Filed 6-5-73;8:45 am]

[Dockets Nos. 19747-19749; FCC 73-556]

IRVENNA BROADCASTING CO. INC. ET AL.

Applications for Construction Permits; Consolidated Hearing

In regards to applications of Irvenna Broadcasting Co., Inc., Irvine, Ky., docket No. 19747, file No. BPH-5996; requests: 100.1 MHz, No. 261; 3 kW; 16 feet; WWKY, Inc., Winchester, Ky., docket No. 19748, file No. BPH-7319; requests: 100.1 MHz, No. 261; 3 kW (H. & V.); 190 feet; David H. Greenlee, trading as Clark Communications Co., Winchester, Ky., docket No. 19749, file No. BPH-8146; requests: 100.1 MHz, No. 261; 3 kW; 300 feet for construction permits.

1. The Commission has under consideration the above applications which are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference. Thus, a comparative hearing is required.

2. According to cost estimates contained in its application, Irvenna Broadcasting Co., Inc. (Irvenna) will need at least $13,000 to construct and operate its proposed station for 1 year.[1] To satisfy these needs, Irvenna indicates that it will rely on a $7,500 loan from the First National Bank of Livingston (Tennessee); a $5,000 loan from the Union Bank & Trust Co. in Irvine; net liquid assets of $1,858; and profits from its existing AM radio station WIRV, Irvine. However, Irvenna has established the availability of only $1,858 in liquid assets. Although the applicant could also rely on some profits from its AM station, as revealed from cash flow figures determined from the yearly financial statements of WIRV, it would still be considerably short of meeting its first year requirements if only thse two sources of funds are relied upon.[2] The letter by which the First Na-

[1] Irvenna's first-year costs consist of the following: Equipment costs, $6,500; miscellaneous expenses, $1,500; and operating expenses, $5,000. Since Irvenna has not submitted sufficient current information concerning the repayment and interest terms for its projected bank loans, no amounts have been calculated for principal and interest payments on such loans.

[2] In samuch as the applicant has not stated the specific amounts in profits from its existing operations upon which it could rely, and since it is not clear from the application that this source is, in fact, relied upon to establish its financial qualifications, we do not believe it appropriate to reveal dollar figures contained in the confidential financial statements at this point. If the applicant makes it clear that it intends to rely on such funds, such data can be introduced in hearing.

tional Bank of Livingston agrees to loan Irvenna $7,500 is over 5 years old and Irvenna has not submitted an updated bank commitment despite two staff letters requesting this information. Thus, we cannot assume that the $7,500 loan is currently available. In addition, the letter in which the Union Bank & Trust Co. agrees to loan $5,000 to Irvenna does not state the repayment and interest terms required for the loan. A bank loan which must be repaid in a short period is a factor that we consider in determining whether a station appears capable of operating on a continuing basis. Therefore, we believe that a bank commitment which fails to specify the period of time over which the loan must be repaid does not adequately describe the terms of repayment and casts doubt as to whether the applicant in question can meet the required payments on its loan as well as its other first-year costs. Furthermore, although the principals of Irvenna have indicated a willingness to supply the necessary funds from their private assets if no other source of funds is available, they have not filed balance sheets showing their ability to do so, as required by the application form. Moreover, Irvenna has not filed any document by which John A. Cunningham, an engineer allegedly living in Livingston, Tenn., agrees to sell the applicant certain technical equipment necessary to effectuate its proposal. Thus, the basis for Irvenna's equipment costs remains in doubt. In light of the foregoing, financial issues will be specified against Irvenna.

3. A review of Irvenna's ascertainment of community problems discloses that it has failed to comply fully with the requirements of our Primer[3] on that subject. First, it cannot be determined in every instance whether the persons consulted by Irvenna are community leaders or merely members of the general public. (See question and answer 20 of the Primer.) Second, Irvenna has not identified the residences of the leaders interviewed with sufficient particularity. Thus, although leaders are listed as residents of Estill and Powell Counties, it is unclear which, if any, of the leaders live or work in Irvine, the proposed community of license. Third, Irvenna has not stated the dates on which the interviews were undertaken or even the general period of time during which such interviews occurred. (See question and answer 15 of the Primer.) Fourth, Irvenna's description of the composition of its proposed community of license is not adequate; for example, it does not mention the governmental, educational, or religious institutions of Irvine. Accordingly, it is unclear whether Irvenna has consulted with a representative cross section of community leaders. Since it is unclear whether a proper cross section of leaders has been consulted, it is also unclear whether the enumeration of problems discovered in the proposed service area is complete, and thus, whether the programing proposed is adequately responsive to the problems of the proposed service area. Accordingly, an issue must be specified against Irvenna with respect to its ascertainment of community problems.

4. Irvenna proposes to serve substantially different areas and populations from those proposed by WWKY, Inc. (WWKY) and Clark Communications Co. (Clark). Consequently, it will be necessary to determine, pursuant to section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service. In the event it is determined pursuant to section 307(b) that the proposals for Winchester are to be preferred, it will be necessary to conduct a full comparison between the two applicants for that community to determine which one is better qualified.

5. Clark proposes independent programing and WWKY proposes to duplicate the programming of its AM station in Winchester during at least 27 hours of its proposed 119-hour-broadcast week.[4] With respect to the Winchester applicants, evidence regarding program duplication will be admissible under the comparative issue in the event the proposals for Winchester are preferred under section 307(b). When duplicated programing is proposed, the showing permitted will be limited to evidence concerning the benefits to be derived from the proposed duplication, and a full comparison of the applicants' program proposals will not be permitted in the absence of a specified programing inquiry. Jones T. Sudbury, 8 F.C.C. 2d 360 (1967).

6. WWKY and Clark are qualified to construct, own, and operate their proposed new FM facilities and, except as indicated by the issues set forth below, Irvenna is qualified to construct, own, and operate its proposed new facility. The applications are, however, mutually exclusive and the Commission is thus unable to make the statutory finding that a grant of the applications would serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues set forth below.

7. Accordingly, *It is ordered*, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine, with respect to the application of Irvenna Broadcasting Co., Inc.:

(a) Whether the First National Bank of Livingston, Livingston, Tenn., is currently willing to loan $7,500 to the applicant, and if so, on what terms;

(b) The repayment and interest terms of the $5,000 loan from the Union Bank & Trust Co., Irvine, Ky.;

(c) Whether John A. Cunningham, an engineer living in Livingston, Tenn., is willing to sell the applicant the technical equipment needed to effectuate its proposal; and if so, on what terms;

(d) The total first-year costs for the applicant's FM proposal;

(e) Whether the applicant has available sufficient funds to construct and operate its proposed FM station for 1 year; and

(f) Whether, in light of the evidence adduced under the preceding issues, the applicant is financially qualified.

2. To determine the efforts made by Irvenna Broadcasting Co., Inc., to ascertain the community problems of the area to be served and the means by which the applicant proposes to meet these problems.

3. To determine the areas and populations which would receive FM service of 1 mV/m or greater intensity from the respective proposals together with the availability of other primary (1 mV/m or better for FM) aural services in such areas.

4. To determine, in light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

5. To determine, in the event it is concluded pursuant to section 307(b) that the proposals for Winchester are to be preferred, which of the Winchester proposals would better serve the public interest.

6. To determine, in light of the evidence adduced under the above issues, which of the applications should be granted.

8. *It is further ordered*, That the applicants shall file a written appearance stating an intention to appear and present evidence on the specified issues, within the time and in the manner required by § 1.221(c) of the rules.

9. *It is further ordered*, That the applicants shall give notice of the hearing within the time and in the manner specified in § 1.594 of the rules, and shall seasonably file the statement required by § 1.594(g).

Adopted May 23, 1973.

Released May 30, 1973.

By the Commission.

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

[FR Doc.73-11252 Filed 6-5-73;8:45 am]

[Docket No. 18634; FCC 73R-200]

PACIFICA FOUNDATION

Memorandum Opinion and Order

1. Before the Review Board for consideration is a petition to enlarge issues,

[3] Primer on Ascertainment of Community Problems by Broadcast Applicants, 27 F.C.C. 2d 650, 21 R.R. 2d 1507 (1971).

[4] It is noted that Irvenna proposes to duplicate the programing of its AM station, WIRV, during most of its broadcast day.

filed February 12, 1973, by the Broadcast Bureau,[1] directed against the application of Pacifica Foundation (Pacifica), in which the petitioner seeks the addition of § 1.65 and unauthorized transfer of control issues.[2] The factual allegations upon which the Bureau bases its requests are undisputed and can be briefly stated. On at least seven separate occasions, subsequent to designation for hearing on August 20, 1969, Pacifica failed to amend its application to reflect serial changes in its officers and directors. Further, although the composition of Pacifica's governing board of directors has changed by more than 50 percent since its application was originally filed, the applicant has neither sought nor obtained Commission consent to a transfer of control.

2. A § 1.65 issue is clearly warranted in light of Pacifica's successive failures to amend its application in order to reflect changes in its officers and directors.[3] Section 1.65 of the Commission's rules provides that whenever information furnished in a pending application is no longer substantially accurate and complete in all significant respects, an applicant shall, unless good cause is shown, amend or seek to amend its application so as to furnish such additional or corrected information as may be appropriate.[4] Contrary to Pacifica's suggestion, the timely submission of ownership reports, although this may bear on intent, does not satisfy the requirements of the section; rather, as the Bureau correctly notes, an applicant is required to keep an application which is "pending" before the Commission substantially complete and accurate. Nor do we agree with Pacifica that the Presiding Judge's order, FCC 70M-854, released June 17, 1970, which provided that all evidentiary matters should remain fixed and in effect during the pendency of a continuance, served to relieve the applicant of its obligation to attempt to keep its application accurate and complete. Finally, although, as Pacifica argues, the precise significance of the composition of the governing body of a noncommercial educational applicant is unclear,[5] the applicant has not, in our view, established that the changes in composition are of little or no significance in this proceeding. Accordingly, an appropriate issue will be added.

3. While the Review Board agrees with the Bureau that the net effect of the gradual changes in Pacifica's board of directors appears to constitute a change of control, we do not agree, given the circumstances here, that the applicant's failure to file an application for a transfer of control warrants the addition of a section 310(b) issue.[6] The primary basis for our determination is the fact that uncertainty exists as to the extent to which the requirements of section 310 (b) are applicable to noncommercial educational applicants and licensees.[7] It is unnecessary for our purposes to determine whether or not the filing of an application for transfer of control is, in fact, required; rather, the significant fact is that, based upon past precedent, the necessity for such a filing is unclear. Given this uncertainty, the Board has no reason to doubt Pacifica's assurance that it was unaware that it may have been in violation of the Commission's rules and regulations in this regard.[8] In light of these circumstances, the Board is of the view that Pacifica's failure to file is excusable, and does not reflect on its basic qualifications to be a Commission licensee.

4. *Accordingly, it is ordered*, That the petition to enlarge issues, filed by the Broadcast Bureau on February 12, 1973, is granted to the extent indicated below, and is denied in all other respects; and

5. *It is further ordered*, That the issues in this proceeding are enlarged by the addition of the following issue:

To determine whether the Pacifica Foundation has complied with the provisions of § 1.65 of the Commission's rules by keeping the Commission advised of changes in its officers and directors; and, if not, to determine the effect of such noncompliance on the applicant's qualifications to be a Commission licensee.

6. *It is further ordered*, That the burden of proceeding with the introduction of evidence under the issue added herein shall be on the Broadcast Bureau and the burden of proof shall be on the Pacifica Foundation.

Adopted May 29, 1973.

Released May 30, 1973.

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

[FR Doc.73-11253 Filed 6-5-73;8:45 am]

[1] Other related pleadings before the Board for consideration are: (a) Opposition, filed Feb. 26, 1973, by Pacifica; and (b) reply, filed Mar. 1, 1973, by the Bureau.

[2] The Board is constrained to point out that the information concerning both requested issues has been available to the Bureau for a considerable length of time, specifically, since June 9, 1970, when exhibits were exchanged in the proceeding. However, in view of the serious nature of the allegations raised by the Bureau, the petition will, nevertheless, be examined on its merits. See the Edgefield-Saluda Radio Co. (WJES), 5 F.C.C. 2d 148, 8 R.R. 2d 611 (1966).

[3] Form 340 is the application form for noncommercial educational FM facilities; question 11, contained in the section pertaining to legal qualifications, requests various information concerning an applicant's officers, members of governing board and holders of 1 percent or more ownership interests.

[4] The applicant sought to amend its application on Feb. 1, 1973; by order, FCC 73-213, released Feb. 15, 1973, the Administrative Law Judge denied the applicant's petition for leave to amend.

[5] See, e.g., New York University, F.C.C. 67-673, 10 R.R. 2d 215 (1967), in which the Commission held that the standard comparative criteria are virtually meaningless in this type of case.

[6] Section 310(b) of the Communications Act of 1934, as amended, provides in pertinent part, that no broadcast license or rights thereunder shall be transferred, assigned or disposed in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation holding such license to any person except upon application to the Commission and upon a finding by the Commission that the public interest, convenience and necessity shall be served thereby.

[7] Pacifica, in an attached appendix, submits: (1) A list of noncommercial educational licensees which it alleges, according to ownership reports on file with the Commission and the Commission's educational television history cards, have undergone one or more changes in a majority of the membership of their governing boards without prior Commission approval; and (2) a list of noncommerical educational licensees in which the identity of the person empowered to appoint the members of the governing boards has changed without prior Commission approval. In response, the Bureau submits three letters indicating that some noncommercial educational applicants have sought Commission approval in this regard in certain instances.

[8] Contrary to the assertions of both parties, Pacifica Foundation, F.C.C. 64-43, 1 R.R. 2d 747 (1964), neither gives notice that a filing would be required of Pacifica, nor relieves it of that obligation. In that case, the Commission held that a change in Pacifica's bylaws constituted a transfer of legal control and granted such an application; the Commission specifically did not address itself to the necessity for filing as a result of change in the composition of the applicant's governing board.

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 11 (p)(1) of the Federal Water Pollution Control Act, as amended, and, accordingly, have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to part 542 of title 46 CFR.

Certificate No.	*Owner/operator and vessels*
01014	Robert Bornhofen Reederei: *Baron.*
01192	Odd Bergs Tankrederi A/S: *Kollbjorg.*
01203	Rederiaktiebolaget Monacus: *Constance.*
01232	Rolf Wigands Rederi A/S: *Ingvi.*
01247	Tonnevolds Tankrederi A/S: *Thorhild, Thorunn.*
01428	Ocean Transport & Trading Ltd.: *Titan.*
01466	Common Brothers (Management) Ltd.: *Ria Jean McMurtry.*
01544	Esso Standard-Societe Anonyme Francaise: *Esso Bretagne, Esso Provence, Esso Gascogne.*
01557	Knut Knutsen O.A.S.: *Torill Knudsen.*
01641	The Bank Line Ltd.: *Cloverbank.*
02167	Sartori & Berger: *Sandhorn.*
02199	Atlantic Richfield Co.: *Arco Anchorage.*
02302	First Steamship Company, Ltd.: *Ever Splendor.*
02317	Gotaas-Larsen A/S: *Golar Girl.*
02935	Cable & Wireless Ltd.: *Retriever.*
03020	Western Pacific Shipping Corp.: *Arizona.*

Certificate No.	Owner/operator and vessels
03058	Amoco Oil Co.: *Amoco Indiana, Amoco Illinois, Amoco Wisconsin, Amoco 9, Amoco 11, Amoco 7, Amoco 1, Amoco 2, Amoco 3, Amoco 4, Amoco 5, Amoco 6, Amoco A–53, Amoco A–54, Amoco A–56, Amoco A–55, Amoco A–51, Amoco A–52, Amoco Missouri, Amoco 10.*
03214	Salenrederierna Aktiebolag: *Snow Ball.*
03468	Nihonkai Kisen Kabushiki Kaisha: *Kanagawa Maru.*
03470	Nikko Kaiji K.K.: *Takuyo Maru.*
03475	Nissho Kisen K.K.: *Zuiho Maru.*
03489	Sanwa Shosen K.K.: *Kathryn Maru.*
03514	Terukuni Kaiun K.K.: *Usa Maru, Atsuta Maru.*
03532	Zuisei Kaiun Kabushiki Kaisha: *Kaiko Maru.*
04004	Koninklijke Java-China-Paketvaart Lijnen N.V.: *Asian Enterprise, Asian Endeavor.*
04007	Egon Oldendorff: *Gebe Oldendorff.*
04171	Young Brothers Ltd.: *Makahani, YB–32.*
04184	M/G Transport Services, Inc.: *Wasson 1, Barge M/G 10D.*
04228	Compagnie Maritime Belge (Lloyd Royal) S.A.: *Mineral Marchienne.*
04404	Lars Rej Johansen: *Jobella.*
04423	Marcona Carriers, Ltd.: *Marcona Transporter.*
04884	Hall Corporation Shipping Ltd.: *River Transport, Beavercliffe Hall, Frankcliffe Hall, Lawrencecliffe Hall, Maplecliffe Hall, Ottercliffe Hall, Scotiacliffe Hall, Halifax, Bay Transport, Cape Transport, Cove Transport, Lake Transport, Island Transport, Sea Transport, Hudson Transport, James Transport, Chemical Transport, Industrial Transport, Inland Transport, Northcliffe Hall, Conniscliffe Hall, Cardinal, Baffin Transport.*
05197	Stravelakis Bros. Ltd.: *Tauros.*
05256	Crestwave Offshore Service, Inc.: *Topper III.*
05376	Stellman Transportation Co.: *Wallace, George.*
05577	Far-Eastern Shipping Co.: *Dalnevostochniy.*
05578	Baltic Shipping Co.: *Yuri Lisyanskiy, Kapitan V. Fedotov.*
05579	Black Sea Shipping Co.: *Professor Buznik.*
05767	Neptune Orient Lines Ltd.: *Neptune Ruby, Neptune Cyprine.*
06191	Neptunea Astrocamino S.A.: *Alexandros B.*
06446	Nike International Ocean Co., S.A.: *Seadragon.*
06511	Associated Shipping Corp. Ltd.: *Southern Enterprise.*
07075	Federal Off-Shore Services Ltd.: *Federal 6.*
07171	Flensburger Ubersee-Schiffahrtsgesellschaft Jacob Mbh & Co. KG: *Rolf Jacob.*
07230	Hassel Trading Corp.: *Seaservice.*
07256	Tiha Inc.: *Caribbean Carrier, Mediterranean Carrier.*
07264	Reederei D. Oltmann KG: *Tendo.*
07532	Fomentos Armadora S.A.: *Mitsos.*
07599	Partenreederei M/T. Frisia: *Ofrisia.*
07637	Ormos Compania Naviera S.A.: *Prodromos.*
07707	Hidalgo Oceanico Navegacion S.A. Panama: *Messiniaki Thea.*
07734	Hersent Offshore, Inc.: *Barge No. 2.*
07766	Transworld Shipping & Trading Co., Ltd.: *Trans Ruby.*
07791	Sammi Shipping Co., Ltd.: *Sammi No. 1.*
07856	Dipoti Shipping Co. S.A.: *Pavlo.*
07877	Beta Shipping Co., Inc.: *Captain John.*
07880	Logicon, Inc.: *Logicon 2701, Logicon 2702.*
07906	Neptune Associated Lines (Pte.) Ltd.: *Neptune Sakura.*
07927	Partenreederei M/S Inalotte Blumenthal: *Inalotte Blumenthal.*
07948	Viatlantic Tanker Corp.: *Ocean Intrepid.*
07950	Norman Offshore Services, Inc.: *DB–4, Ranger.*
07911	Seahold Shipping Co. Ltd.: *Ruthie Michaels.*
07940	Kornos Shipping Co. Ltd. of Nicosia: *Elikon.*
07941	Dundee Shipping Inc.: *Stolt Puma, Stolt Higer.*
07944	Azimuth Navigators Inc.: *Zeena.*
07949	Mundogas (Storage) Inc.: *Monomer Venture.*
07960	Rederiet For M/S Arctic WASA: *Arctic Wasa.*
07971	Tanker Enterprises, Inc.: *Stolt Pasadena.*
07972	Aegean Maritime Enterprises, Inc.: *Stolt Aegean.*
07973	Coscol Tankers, Inc.: *Coastal Colorado.*
07976	Golden Trinity Steamship Inc.: *Golden Trinity.*
07977	Navios Reinante Maritima S.A.: *Olympian.*
07979	Montenegro Costas, S.A.: *Benigno Montenegro.*
07981	Cristobal Navigation Corp.: *Sovereign Edith.*
07982	Nissan Prince Kaiun K.K.: *Prince Maru No. 7.*
07983	Seiko Kaiun K.K.: *Daitoku Maru No. 16.*
07984	North Tankers Shipping Corp.: *Blue Ranger, White Ranger.*
07986	Navifor Inc.: *Navifor II.*
07988	Kira Compania Naviera S.A. Panama: *Arpa.*
07993	Cosmopolitan Tankers, Inc.: *Allison Conway.*
07994	Les Armateurs du St. Laurent, Inc.: *Maurice Desgagnes.*
07998	Aegean Sea Traders Corp.: *Aegean Sea.*
07999	Sakamoto Yohei: *Chosei Maru No. 8.*
08004	Delphi Tankers Corp.: *Dauphine.*
08008	Ordy de Navegacion S.A.: *May Timor.*
08009	Celestial Navigation Corp.: *Adelina.*
08010	Someida Corp.: *Antonaki.*
08011	Sceptre Marine Corp.: *Sceptre.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73–11276 Filed 6–5–73;8:45 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Revoked

Notice of voluntary revocation is hereby given with respect to certificates of financial responsibility (oil pollution) which had been issued by the Federal Maritime Commission, covering the below-indicated vessels, pursuant to part 542 of title 46 CFR and section 11 (p) (1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	Owner/Operator and Vessels
01014	Robert Bornhofen Reederei: *Wilhelm Bornhofen.*
01091	Rasmus F. Olsen: *Linnea.*
01161	General Freighters Corp.: *Syrie, Nicolo, Alessandra.*
01185	Aksjeselskapet Kosmos: *Jagona.*
01228	A/S Consensio: *Stove Scotia.*
01232	Rolf Wigands Rederi A/S: *Jonwi, Gerwi.*
01268	Tonnevolds Rederi A/S: *Theresie.*
01271	Scheepvaart Maatschappij "Transocean B.V.": *Moerdyk.*
01311	Mardoro Compania Naviera S.A.: *Anthony II.*
01330	Shell Tankers (U.K.) Ltd.: *Hatasia.*
01341	John I. Jacobs & Co. Ltd.: *Cherrywood.*
01363	Compania De Navegacion Calidimar S.A. Panama: *Acamar.*
01380	Atlantic Shipping & Trading Co., Ltd.: *Exning.*
01548	Hain-Nourse Ltd.: *Trefusis, Jumna, Trecarne, Nurmahal, Advocate, Trebartha, Trewidden, Trevaylor, Tremeadow, Treneglos, Trevalgan.*
01823	Aretusa S.P.A.-Palermo: *Aretusa.*
01857	Ohg. I. Fa. Bernhard Schulte: *Friedereke Ten Doornkaat.*
01862	Eastmead Shipping Co., Ltd.: *Horama.*
01978	Marvaloria Cia. Nav. S.A. of Panama: *Glorious Colocotronis.*
02199	Atlantic Richfield Co.: *Atlantic Boat No. 133.*
02218	Christian Haaland: *Northern Lights.*
02295	The Great Eastern Shipping Co., Ltd.: *Jag Rayna, Jag Manek.*
02384	Kristiansands Tankrederi A/S, A/S Kristiansands Tankrederi II, Aksjeselskapet Avant and Aksjeselskapet Skjoldheim: *Pollycrown.*
02458	The China Navigation Co., Ltd.: *Nanchang.*
02715	Allied Towing Corp.: *Hot Oil 17.*
02733	Victoria Marine Co.: *Capt. W. D. Cargill.*
02850	Maritime Lloyd Inc.: *Silver Bay.*
02860	Taiwan Navigation Co., Ltd.: *Tai Chung.*
02870	Isthmian Lines, Inc.: *Steel Apprentice.*
02871	Eastern Supplier Operations, Inc.: *Eastern Supplier.*
02872	States Marine International, Inc.: *Pine Tree State.*
02946	Yerania Shipping Corp.: *Monsun.*
03020	Western Pacific Shipping Corp.: *El Gavilan.*
03044	Koninklijke Java-China-Paketvaart Lijnen N.V.: *Straat Fraser, Straat Fremantle.*
03058	The American Oil Co.: *Amoco 300, Amoco Indiana, Amoco Illinois, Amoco Wisconsin, Amoco 9, Amoco 11, Amoco 10, Amoco 7, Amoco 1, Amoco 2, Amoco 3, Amoco 4, Amoco 5, Amoco 6, Amoco A–53, Amoco A–54, Amoco A–56, Amoco A–55, Amoco A–51, Amoco A–52, Amoco Missouri.*
03132	Seatrain International S.A.: *Angela II.*
03212	AMOCO Shipping Co.: *AMOCO Louisiana.*
03218	Latona N.V.: *ANCO Spray.*
03301	Prudential-Grace Lines, Inc.: *Santa Ana, Santa Eliana, Santa Anita.*

Certificate No.	Owner/operator and vessels
03321	Marunouchi Kisen K.K.: *Asian Maru, Chuoh Maru, Everett Maru.*
03329	Hudson Waterways Corp.: *Seatrain Delaware.*
03333	Ivory Coast Transport Corp.: *Sfakia.*
03344	San Antonio Steamship Co., S.A.: *San Antonio.*
03397	Mr. Hilmar Reksten: *Arrian.*
03400	Nocolas J. Vardinoyannis: *Pavlos V.*
03625	Hygrade Operators Inc.: *Hygrade No. 14.*
03690	The Harbor Tug & Barge Co.: *Isla Grande.*
04002	Compagnie Des Messageries Maritimes: *Euphrate.*
04007	Egon Oldendorff: *Teresopolis.*
04116	Micronesia Interocean Line, Inc.: *Gunners Knot.*
04196	Otto Candies, Inc.: OC–187, OC–188, OC–190, OC–191, OC–192, OC–193, OC–194, OC–195, OC–196, OC–197, OC–198, OC–189.
04202	Petroleum Transport Inc.: *Pyrgos.*
04314	Jadranska Slobodna Plovidba-Split: *Zenica, Vares.*
04357	Koninklijke Nedlloyd N.V.: *Bawean.*
04358	Holland Bulk Transport N.V.: *Amstelhoek.*
04398	Hapag-Lloyd A/G: *Weserstein, Werrastein, Travestein.*
04429	Heiner Braasch Seereederei Gesellschaft MS Hamburger Fleet MS Hmbgr. Brucke KG: *Cap Verde.*
04527	Kabushiki Kaisha Todoro Shouten: *Suwa Maru No. 32.*
04880	Oljekonsumenternas Forbund: *Oktania.*
04903	Hudson Transport Inc.: *Hudson.*
04935	Coal Overseas Corp.: *Butterfly.*
04948	Partenreederei M.V. "Bremersand": *Bremersand.*
04955	Partenreederei M.V. "Surwardersand": *Surwardersand.*
05037	Meandros Shipping Development Corp., Special Shipping S.A.: *Salamat.*
05064	Hariet E.A.N.E.: *Hariet.*
05095	ESSO Tankvaart Maatschappij N.V.: *ESSO Nederland, ESSO Europoort, ESSO Den Haag.*
05114	N.V. Stoomvaartmaatschappij "De Maas": *Papendrecht.*
05390	Massa Cap. Francesco: *Capo Miseno.*
05691	Canadian Tugboat Co., Ltd.: *CZ No. 1.*
05724	Marcos Shipping Co., Ltd.: *Marco.*
05785	MS. "Nordsee Pioneer" Schiffahrts K.G.: *Nordsee Pioneer.*
05786	MS. "Nordsee Pilot" Schiffahrts K.G.: *Nordsee Pilot.*
05878	Societe De Baillon Inc.: *C De Maloize.*
05886	Hughes Bros., Inc.: *Hughes No. 1, Hughes No. 102, Hughes No. 103, Hughes No. 111, Hughes No. 143, Hughes No. 144, Hughes No. 152, Hughes No. 276, Hughes No. 253, Hughes No. 256.*
05998	Navarino Shipping & Transport Co., Ltd.: *Dignity.*
06042	Luzon Stevedoring Corp.: *LSCO Transasia, LSCO Danang.*
06191	Neptunea Astroncamino: *Alexandros B.*
06291	Thasian Shipping Co., Inc., Monrovia: *Delphic Eagle.*
07238	Astra Carriers, Inc., Panama: *Maritime Union.*
07374	Ocean Tramping Co., Ltd.: *Gaoyu.*
07385	Theodor Mengdehl & Co., Hamburg: *Amisia.*
07395	Immingham Shipping Co., Ltd.: *Immingham.*
07599	Partenreederei M/T "Frisia": *Frisia.*
07789	Siam Lines Corp., Ltd.: *Siam Saphire.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73–11277 Filed 6–5–73;8:45 am]

[Docket No. 71–86]

TWIN EXPRESS, INC.

General Increases in Rates in U.S. Atlantic and Puerto Rico Trade; Investigation and Suspension

On November 11, 1971, the Commission commenced this proceeding to determine whether a 26-percent increase in rates filed by respondent Twin Express (TE) was reasonable, suspended the increase, and permitted TE to publish an interim 18-percent rate increase. No action was ever taken by respondent to effectuate the 26-percent increase, and on March 24, 1973, the tariff supplement containing that 26-percent increase was canceled. The 18-percent increase was made effective on March 24, 1973, by the supplement which canceled the 26-percent increase.

On April 15, 1973, TE was permitted to put into effect a surcharge of 3.7 percent to cover its increased costs related to the current contracts of its underlying carriers with the International Longshoremen's Association (ILA).

Now Twin Express is proposing to replace its 18-percent general increase with a 23-percent increase effective June 3, 1973. At the same time, the 3.7 percent ILA surcharge will be adjusted to 3.3 percent so that the revenues generated by the surcharge will remain about the same.[1]

On May 1, 2, and 3, 1973, hearings on remand were held in this proceeding. At those hearings, Twin Express introduced exhibits showing the effects of 18 percent, 23 percent, and 26 percent increases in rates. Thus, the proposed increase has already been incorporated into the proceeding, although informally, and has been subjected to the same scrutiny as the 18 percent increase.

The data filed by Twin Express in support of this 23 percent increase consisted of some of the exhibits introduced in the recent hearings. In view of these facts and of the status of this proceeding, the Commission is of the opinion that the proposed 23 percent increase should be suspended for the statutory period or until a decision on the merits can be rendered by the Commission in this case. Good cause appearing, therefore:

It is ordered, That pursuant to the authority of sections 18(a) and 22 of the Shipping Act, 1916, and sections 3 and 4 of the Intercoastal Shipping Act, 1933, an investigation is hereby instituted into the lawfulness of said tariff matters for the purpose of making such findings and orders as the facts and circumstances warrant. In the event the matters hereby placed under investigation are further changed, amended, or reissued, such changes will be included in this investigation.

It is further ordered, That pursuant to section 3, Intercoastal Shipping Act, 1933, supplement No. 7 and 6th revised page No. 17–T to Twin Express' tariff FMC–F No. 1 are hereby suspended and the use thereof deferred to and including October 2, 1973, unless otherwise ordered by the Commission.

It is further ordered, That there shall be filed immediately with the Commission by Twin Express a consecutively numbered supplement to its aforesaid tariff, which supplement shall bear no effective date, shall reproduce the portion of this order wherein the suspended matter is described and shall state that the aforesaid matter is suspended and may not be used until October 3, 1973, and that the suspended matter may not be changed until this proceeding has been disposed of or until the period of suspension has expired, whichever comes first, unless otherwise ordered by the Commission.

It is further ordered, That this matter shall be joined with the matters previously set for investigation and hearing in this proceeding and that the lawfulness of these rates shall be determined in the same initial decision by the same administrative law judge.

It is further ordered, That copies of this order shall be filed with the appropriate tariff schedules in the Bureau of Compliance of the Federal Maritime Commission.

It is further ordered, That a copy of this order shall forthwith be served on respondent herein and on all other parties to this proceeding and published in the FEDERAL REGISTER.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.73–11275 Filed 6–5–73;8:45 am]

[1] The pertinent tariff matter is supplement No. 7 and 6th revised page 17–T to Twin Express' tariff FMC–F No. 1.

EVERETT ORIENT LINE, INC., AND STATES STEAMSHIP CO.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington,

D.C., 20573, on or before June 26, 1973. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. W. Huie, Jr., Rates and Conferences Department, States Steamship Co., 320 California Street, San Francisco, Calif. 94108.

Agreement No. 10055, between the above named carriers, establishes a through billing arrangement for the transportation of cargo in the trades from United States and Canadian Pacific Coast Ports and Hawaii, to Indonesian Ports, with transshipment at Hong Kong or Japanese Ports, under terms and conditions set forth in the agreement.

Dated June 1, 1973.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-11280 Filed 6-5-73;8:45 am]

[Independent Ocean Freight Forwarder License 930]

EDMOND LOELIGER, INC.

Order of Revocation

Edmond Loeliger, Inc., 17 Battery Place North, New York, N.Y. 10004, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 930 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) § 7.04(f) (dated May 1, 1972);

It is ordered, That Independent Ocean Freight Forwarder License No. 930 of Edmond Loeliger, Inc., be and is hereby revoked effective May 23, 1973, without prejudice to reapply for a license at a later date.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon Edmond Loeliger, Inc.

AARON W. REESE,
Managing Director.

[FR Doc.73-11279 Filed 6-5-73;8:45 am]

FEDERAL POWER COMMISSION

[Dockets Nos. RI73-294, etc.]

RATE CHANGES

Order Providing for Hearing and Suspension of Proposed Changes and Allowing Changes To Become Effective Subject to Refund [1]

MAY 25, 1973.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in appendix A hereof.

[1] Does not consolidate for hearing or dispose of the several matters herein.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds

It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

MARY B. KIDD,
Acting Secretary.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per thousand cubic feet* Rate in effect	Cents per thousand cubic feet* Proposed increased rate	Rate in effect subject to refund in docket No.
RI73-294	Sun Oil Co.	94	[2] 10	Northern Natural Gas Co., (Emperor Field, Winkler County, Tex., Permian Basin).	$79,077	4-27-73		6-28-73	19.0713	21.0	RI73-221.
			11		291,305	4-27-73		11-28-73	[3] 21.0	28.105	
RI73-295	A. F. Roberts, Jr.	3	4	El Paso Natural Gas Co. (Todd Northwest Field, Crockett County, Tex., Permian Basin).	342	4-30-73		7-1-73	17.5	18.5	
RI73-296	McCulloch Oil Corporation of Texas.	4	3	Northern Natural Gas Co. (Gomez Field, Pecos County, Tex.) (Permian Basin).	444	5-2-73		7-3-73	25.0	25.2	

*Unless otherwise stated, the pressure base is 14.65 lb/in²a.
[2] Includes letter from buyer agreeing to increase.
[3] Suspended until June 28, 1973.

The proposed increase of Sun Oil Co. under Supplement No. 11 to its FPC Gas Rate Schedule No. 94 exceeds the rate limit for 1-day suspension, and is suspended for 5 months.

The remaining proposed increases do not exceed the rate limit for 1-day suspension and are, therefore, suspended for 1 day.

McCulloch Oil Corp. of Texas requests waiver of the 30-day statutory notice requirement. Good cause has not been shown for granting such request and therefore it is denied.

The producers' proposed increased rates and changes exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR, ch. I, pt. 2, § 2.56).

The rate increases granted in these cases have been reviewed in the light of and are consistent with the Economic Stabilization Act of 1970, as amended, Executive Order No. 11695, and the rules and regulations issued thereunder.

[FR Doc.73-11109 Filed 6-5-73;8:45 am]

NATIONAL POWER SURVEY; TECHNICAL ADVISORY COMMITTEE ON RESEARCH AND DEVELOPMENT; TASK FORCE ON ENERGY SOURCES RESEARCH

Notice of Meeting

Meeting to be held at the Federal Power Commission Offices, 825 North Capitol Street NE., Washington, D.C., 9:30 a.m., June 7, 1973, room 5200.

1. Meeting called to order by FPC Coordinating Representative.

2. Objectives and purposes of meeting.
A. Discussion of contents of task force report with regard to:
1. Nuclear fuels.
2. Fossil fuels.
3. Geothermal energy.
4. Solar energy.
5. Organic materials as fuel.
B. Discussion of important issues in preparing recommendations to the R. & D. Committee.
C. Other business.
D. Schedule of future meetings.
3. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or, if oral, at the time and in the manner permitted by the committee.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-11440 Filed 6-5-73;10:50 am]

FEDERAL RESERVE SYSTEM

BANKAMERICA CORP.

Proposed Acquisition of BA Insurance Co., Inc.

BankAmerica Corp., San Francisco, Calif., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of BA Insurance Co., Inc., San Francisco, Calif. Notice of the application was published on March 9, 1973, in the San Francisco Chronicle, a newspaper circulated in the county and city of San Francisco, Calif.

Applicant states that the proposed subsidiary would engage in the activities of underwriting and reinsuring credit life and health and accident insurance which is directly related to extensions of credit on installment and real estate loans by BankAmerican and its affiliates, primarily Bank of America National Trust & Savings Association, San Francisco, Calif. Such activities have been specified by the Board in § 225.4(a) of regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."

Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 25, 1973.

Board of Governors of the Federal Reserve System, May 29, 1973.

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

[FR Doc.73-11256 Filed 6-5-73;8:45 am]

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

NOTICE OF CLOSED MEETING

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770, 1972), notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA), established under Public Law 92-125, as amended, will hold a closed meeting at 1000 on June 18, 1973, and at 0900 on June 19, 1973, in the Main Commerce Building, 14th and E Streets NW., Washington, D.C.

The Committee, consisting of 25 non-Federal members appointed by the President from State and local governments, industry, science, and other appropriate areas, was established by Congress by Public Law 92-125, on August 16, 1971. Its duties are to (1) undertake a continuing review of the progress of the marine and atmospheric science and service programs of the United States, (2) submit a comprehensive annual report to the President and to the Congress setting forth an overall assessment of the status of the Nation's marine and atmospheric activities on or before June 30 of each year, and (3) advise the Secretary of Commerce with respect to the carrying out of the purposes of the National Oceanic and Atmospheric Administration.

The purpose of the June 18-19 meeting is to continue from the previous meeting of NACOA on May 10-11, the review, discussions, and revision as needed of material prepared by members and staff for possible inclusion in the Committee's forthcoming annual report, a public document, due for submission through the Secretary of Commerce on June 30, 1973, as per statute. This material is based on information regarding agency programs, policies, and priorities still in the process of formulation obtained through agency observers and staff detailed to the Committee as provided for in the statute. The topics cover coastal zone management, industrial activities, living resources, ocean science, atmospheric programs, engineering support, and Federal organization for marine and atmospheric affairs.

The Assistant Secretary of Commerce for Administration has determined that the meeting described above will consist of discussion of documents exempt under 5 U.S.C. 552(b)(5) and an exchange of opinions, that the discussion if written would fall within exemption (5) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid undue interference with the operation of the Committee.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Dr. Douglas L. Brooks, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, Department of Commerce Building, room 5225, Washington, D.C. 20230. Telephone 967-3343.

Issued in Washington, D.C., June 1, 1973.

DOUGLAS L. BROOKS,
Executive Director.

[FR Doc.73-11286 Filed 6-5-73;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 73-45]

NASA PHYSICAL SCIENCES COMMITTEE

Notice of Date and Place of Meeting

The Physical Sciences Committee of the NASA Space Program Advisory Council will meet at the headquarters of the National Aeronautics and Space Administration on June 18 and 19, 1973. The meeting will be held in room 5026 of Federal Office Building 6, located at 400 Maryland Avenue SW., Washington, D.C. 20546. The meeting is open to members of the public, from 9:30 a.m. to 4:30 p.m. on June 18, 1973, and from 9:30 a.m. to 12 noon on June 19, 1973, on a first-come, first-served basis to within the 60-seat capacity of the room. Visitors will be requested to sign a visitor's register.

The Physical Sciences Committee serves only in an advisory capacity to NASA. The committee is concerned with all aspects of the physical sciences which are relevant to the space program, including lunar and planetary exploration, astronomy, and space physics. The committee has 12 members including the chairman, Dr. Michael B. McElroy. For further information regarding the meeting, please contact Dr. Donald Senich: Area code 202-755-6280. The agenda for the meeting is as follows:

JUNE 18, 1973

Time	*Topic*
9:30 a.m....	Outlook for fiscal year 1975 space science program (Action: The committee is requested to give NASA advice and recommendations regarding the alternatives and priorities of future space science programs based upon prognosticated budget contingencies).
10:30 a.m....	Operations of experiment team after flight (Action: Scientific teams are selected to support specific experiment activities on NASA flight programs. The committee's advice and assistance are requested in reviewing and recommending the experiment team's functions subsequent to completion of the flight program).

Time	Topic
11:30 a.m.	NASA experiment acquisition (Action: NASA is in the process of revising the methods and procedures utilized to acquire space experiments. Members of the committee need to be informed on this important subject to assist them in subsequent deliberations).
12 noon	Lunch.
1:30 p.m.	Shuttle payload planning (Action: NASA currently has four working groups planning science payloads for the Space Shuttle. A summer study in July is also planned on the subject of Shuttle Sortie payloads under the aegis of the National Academy of Sciences. The committee's advice and assistance are requested in reviewing, assessing, and augmenting these on-going studies).
3 p.m.	Restructured HEAO (Action: The committee is requested to comment and give recommendations on the planned order of payloads for the restructured HEAO program).
4 p.m.	Lunar science program (Action: The committee is requested to advise NASA on future plans for the lunar science program).
4:30 p.m.	Adjourn.
	JUNE 19, 1973
	Executive Session (Action: The Office of Space Science has activated disciplinary working groups to assist in the planning of specific missions and/or programs. The committee's advice is requested on the organization, function, and membership of future groups of this nature. The discussions will deal with personnel matters which, if conducted in a public session, may well invade the privacy of the individuals concerned.)
9:30 a.m.	Post-Viking exploration of Mars (Action: The committee's recommendations for future programs to explore the planet Mars have been requested. Prior to formulating such recommendations, the members have requested additional information regarding current plans and the results obtained by the Post-Viking Mars Science Advisory Committee.)
11 a.m.	Status of mission planning for Pioneer Venus (Action: A general overall status of mission planning will be presented to the committee with emphasis on recent payload selection.)
12 noon	Adjourn.

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

[FR Doc.73-11282 Filed 6-5-73;8:45 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" (Stat. 1744); notice is hereby given that on May 29, 1973, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Arkansas from severe storms and flooding, beginning about May 27, 1973, is 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) 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:

Craighead	Jackson
Crawford	Poinsett

(Catalog of Federal domestic assistance program No. 50.002, "Disaster Assistance.")

Dated May 31, 1973.

ELMER F. BENNETT,
Acting Director, Office of Emergency Preparedness.

[FR Doc.73-11222 Filed 6-5-73;8:45 am]

MICHIGAN

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Michigan, dated April 13, 1973, and published April 20, 1973 (38 FR 9867), and amended April 18, 1973, and published April 24, 1973 (38 FR 10139), is hereby further 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 12, 1973:

The counties of:

Menominee. Van Buren.

(Catalog of Federal Domestic Assistance Program No. 50.002, Disaster Assistance.)

Dated May 31, 1973.

ELMER F. BENNETT,
Acting Director, Office of Emergency Preparedness.

[FR Doc.73-11223 Filed 6-5-73;8:45 am]

WISCONSIN

Amendment to Notice of Major Disaster

Notice of major disaster for the State of Wisconsin, dated April 30, 1973, and published May 4, 1973 (38 FR 11139), and amended May 9, 1973, and published May 14, 1973 (38 FR 12636), is hereby further 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 27, 1973:

The counties of:

Pepin	Sheboygan
Portage	

(Catalog of Federal Domestic Assistance Program No. 50.002, Disaster Assistance.)

Dated June 1, 1973.

ELMER F. BENNETT,
Acting Director, Office of Emergency Preparedness.

[FR Doc.73-11272 Filed 6-5-73;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

AIR CALIFORNIA

Order Suspending Trading

MAY 30, 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 Air California 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 May 31, 1973, through June 9, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-11234 Filed 6-5-73;8:45 am]

[70-5355]

AMERICAN NATURAL GAS CO. AND MICHIGAN CONSOLIDATED GAS CO.

Notice of Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding; Increase in Authorized Shares of Common Stock and Issue and Sale Thereof to Holding Company

JUNE 1, 1973.

Notice is hereby given that American Natural Gas Co. (American Natural), 30 Rockefeller Plaza, suite 4950, New York, N.Y. 10020, a registered holding company, and one of its subsidiary companies, Michigan Consolidated Gas Co. (Michigan Consolidated), One Woodward Avenue, Detroit, Mich. 48226, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(b), 9, 10, and

12(f) of the Act and rules 43 and 50 thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Michigan Consolidated proposes to issue and sell, subject to the competitive bidding requirements of rule 50 under the Act, $35 million principal amount of first mortgage bonds, __ percent series, due 1998. The interest rate (which will be a multiple of one-eighth of 1 percent) and the price, exclusive of accrued interest (which will not be less than 98½ percent nor more than 101½ percent of the principal amount) will be determined by the competitive bidding. The bonds will be issued under a mortgage and deed of trust, dated as of March 1, 1944, as heretofore supplemented and as to be further supplemented by a 21st supplemental indenture to be dated as of July 1, 1973, between Michigan Consolidated and First National City Bank (formerly the First National City Bank of New York) and William T. Hayes, as trustees, and including a prohibition until July 15, 1978, against refunding the issue with the proceeds of funds borrowed at a lower effective interest cost.

Michigan Consolidated also proposes to increase its authorized shares of common stock, par value $14 per share (all of which are owned by American Natural), from 13,200,000 to 13,600,000 shares, and to issue and sell, and American Natural proposes to acquire, 400,000 additional shares of common stock of Michigan Consolidated at a price of $14 per share, or for an aggregate price of $5,600,000.

It is stated that the net proceeds from the sale of the bonds and common stock will be used to retire all of Michigan Consolidated's then outstanding notes payable to banks due August 31, 1973, and to pay, in part, 1973 construction costs (estimated at $91 million). The amount of notes payable to banks outstanding at the time of execution of the proposed transactions is estimated at $17 million. It is further stated that additional funds required to finance Michigan Consolidated's 1973 construction will be obtained from its operations and from additional borrowings which will be the subject of a future application to the Commission.

The fees and expenses to be paid in connection with the proposed transactions are estimated at $10,000 for the common stock, including counsel fees of $1,250, and $158,000 for the bonds, including counsel fees of $29,000 and accounting fees of $9,000. The fee of counsel for the purchasers of the bonds is estimated at $13,000 and is to be paid by the successful bidders. It is stated that the issuance and sale of the bonds and common stock requires authorization by the Michigan Public Service Commission and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than June 26, 1973, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-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 applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

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

[FR Doc.73-11236 Filed 6-5-73;8:45 am]

[811-1977]

ARAGON FUND, INC.

Notice of Filing of Application

MAY 31, 1973.

Notice is hereby given that Aragon Fund, Inc., 901 First National Bank Building, Light and Redwood Streets, Baltimore, Md. 21202 (Applicant), a diversified, open-end management investment company registered under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations as set forth therein, which are summarized below.

Applicant, a Maryland corporation organized on November 12, 1969, registered under the Act on December 4, 1969. Applicant represents that it has no shareholders; that it intends to dissolve and surrender its charter to the State of Maryland; and that it is deregistering all registered but unsold shares under the Securities Act of 1933.

Section 3(c)(1) of the Act excepts from the definition of an investment company 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.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is hereby given that any interested person may, not later than June 25, 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 reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of 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 such application, unless an order for a hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

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

[FR Doc.73-11237 Filed 6-5-73;8:45 am]

[File No. 500-1]

ARLAN'S DEPARTMENT STORES INC.

Order Suspending Trading

MAY 30, 1973.

The common stock, $1 par value, of Arlan's Department Stores Inc., being traded on the New York Stock Exchange and the PBW Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934, and all other securities of Arlan's Department Stores Inc., being traded on or 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 exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from May 31, 1973, through June 9, 1973.

By the Commission.

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

[FR Doc.73-11235 Filed 6-5-73;8:45 am]

[811-2072]

GARRISON GROWTH FUND

Notice of Filing of Application

MAY 31, 1973.

Notice is hereby given that the Garrison Growth Fund, 1 Battery Park Plaza, New York, N.Y. 10004 (Applicant), an open-end diversified management investment company registered under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant, a Delaware corporation, registered under the Act by filing its form N-8A notification of registration on June 17, 1970. On September 10, 1970, Applicant filed a form N-8B-1 registration statement under the Act together with a form S-5 registration statement under the Securities Act of 1933 (1933 Act), which 1933 Act registration statement became effective on June 21, 1971.

The application states, among other things, that Applicant's board of directors, at a meeting held on August 31, 1972, determined to dissolve Applicant and adopted a plan of complete liquidation and dissolution (plan), subject to shareholder approval, and that at a special meeting of stockholders held October 31, 1972, the Plan was approved by the holders of more than a majority of Applicant's outstanding shares. As of February 9, 1973, pursuant to the Plan, a liquidating distribution was made to stockholders in the amount of $10.9507 per share. The application states that as a result of the consummation of the Plan, Applicant has no shareholders and no assets other than cash in the amount of less than $5,000, which cash is to be used for payment of expenses incurred in connection with the winding up and dissolution of Applicant.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than June 25, 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 reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the Applicant at the address stated 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.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

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

[FR Doc.73-11238 Filed 6-5-73;8:45 am]

[811-892]

LOOMIS-SAYLES CANADIAN AND INTERNATIONAL FUND LTD.

Notice of Filing of Application

MAY 31, 1973.

Notice is hereby given that Loomis-Sayles Canadian and International Fund Ltd., Toronto/Dominion Centre, Toronto 1, Ontario, Canada (Applicant), an open-end diversified management investment company registered under the Investment Company Act of 1940 (the Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was organized as a Canadian corporation in January 1959 and was permitted on July 6, 1959, to register as an investment company pursuant to the provisions of section 8 of the Act by an order of the Commission pursuant to the provisions of section 7(d) of the Act and the rules and regulations thereunder.

Applicant represents that pursuant to an agreement and plan of reorganization adopted by its shareholders at a special meeting held on March 1, 1973, it has transferred substantially all of its properties and assets to Scudder International Investments Ltd. (Scudder), a Canadian corporation registered under the Act, in exchange for common shares of Scudder, at adjusted net asset value, and it has distributed the common shares of Scudder to its shareholders in liquidation. Applicant further represents that it is in the process of applying to the Canadian Minister of Consumer and Corporate Affairs for the surrender of its charter. Accordingly, Applicant asserts that it has ceased to be an investment company under the Act and that no purpose is served by its continued registration thereunder.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than June 27, 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 reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be adressed: 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 the Applicant at the address stated 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.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

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

[FR Doc.73-11239 Filed 6-5-73;8:45 am]

[812-3361]

MUTUAL BENEFIT LIFE INSURANCE CO. ET AL.

Notice of Application

MAY 31, 1973.

In the matter of the Mutual Benefit Life Insurance Co., Mutual Benefit Variable Contract Account 3, Mutual Benefit Variable Contract Account 2, and Mutual Benefit Financial Service Co., 520 Broad Street, Newark, N.J. 07101.

Notice is hereby given that Mutual Benefit Variable Contract Account 3 (the Account), registered as a unit investment trust under the Investment Company Act of 1940 (the Act); Mutual Benefit Variable Contract Account 2 (VCA 2), registered as a unit investment trust under the Act; The Mutual Benefit Life Insurance Co. (Mutual Benefit Life), the sponsor and depositor of the Account; and Mutual Benefit Financial Service Co. (Fisco), principal underwriter for the Account and VCA 2 (collectively Applicants), have filed an application (and amendments thereto) pursuant to section 11 of the Act for approval of an offer of exchange and pursuant to section 6(c) of the Act for exemptions from sections 22(d), 26(a), and 27(c)(2) thereunder, to the extent set forth below.

All interested persons are referred to the application, as amended, on file with the Commission for a statement of the representations contained therein, which are summarized below.

Mutual Benefit Life is a mutual life insurance company organized under the laws of New Jersey. The Account is a separate account of Mutual Benefit Life established pursuant to a resolution of the board of directors of Mutual Benefit Life, adopted on February 5, 1969. It is designed to serve as a funding medium for variable annuity contracts to be issued and administered by Mutual Benefit Life, including but not necessarily limited to, Individual Tax-Qualified and Non-Qualified Variable Annuity Contracts (the Contracts). The Contracts provide for retirement payments and other benefits for persons covered under plans qualified for special income tax treatment under section 401 or 403 of the Internal Revenue Code of 1954, as amended (the Code), and for persons desiring such benefits which do not qualify for such tax treatment. Under the Contracts, purchase payments may be accumulated before retirement, and annuity payments may be received after retirement, on a variable or fixed basis, or both. Variable accumulations and variable annuity payments will be funded through the Account which will invest in shares of Mutual Benefit Fund (the Fund), a registered, open-end, diversified, management investment company. FISCO, a wholly owned subsidiary of Mutual Benefit Life, is a registered broker-dealer under the Securities Act of 1934.

Two types of Contracts are available: (1) Flexible purchase payment Contracts under which purchase payments are made periodically, and (2) single purchase payment Contracts under which annuity payments may begin immediately or be deferred. A sales charge deduction of 8.5 percent is made from each flexible purchase payment. A sales charge deduction of 8.5 percent is made from the first $5,000 of a single purchase payment, 4.5 percent from the next $45,000, and 3.25 percent from any excess over $50,000. The minimum purchase payment for flexible purchase payment Contracts is $25, and for single purchase payment Contracts it is $5,000 when nonqualified and $2,500 when tax-qualified.

VCA 2 is a separate account of Mutual Benefit Life established pursuant to a resolution of the board of directors of Mutual Benefit Life, adopted February 5, 1969. It is designed to serve as a funding medium for variable annuity contracts issued and administered by Mutual Benefit Life, including, but not necessarily limited to, Group Tax-Qualified Variable Annuity Contracts (the VCA 2 Contracts). The VCA 2 Contracts provide for retirement payments and other benefits for employees and self-employed persons covered under plans qualified under section 401 or 403 of the Code. Under the VCA 2 Contracts, purchase payments may be accumulated before retirement, and annuity payments may be received after retirement, on a variable or fixed basis, or both. Variable accumulations and variable annuity payments are funded through VCA 2 which will only invest in shares of the Fund.

A sales charge is deducted from each purchase payment under a VCA 2 Contract. The charge is computed as a percentage of each purchase payment, based on the cumulative total of such payments made for the participant and such charges are 7.50 percent from the first $1,000, 5 percent from the next $4,000, 3 percent from the next $5,000, and 1.50 percent from any excess over $10,000. A VCA 2 Contract will be issued only if the expected purchase payments during the first contract year for all participants total at least $10,000. In addition, under 403(b) Plans, the annuity purchase agreement between each participant and his employer must specify that contributions on his behalf will be at least $240 during each year under the Plan.

Section 22(d), in pertinent part, makes it unlawful for a registered investment company, its principal underwriter, and dealers to sell its redeemable securities except at a current public offering price described in the company's prospectus.

1. Applicants Mutual Benefit Life, FISCO, and the Account request exemptions from section 22(d) of the Act to permit the Contracts to be sold with certain provisions, described below, that would constitute variations in the current public offering price:

(a) An exemption is requested to permit a scale of reduced charges under a single purchase payment Contract applicable to the total amount of the purchase payment made by a Contract owner regardless of whether the payment is allocated to the variable accumulation account or the fixed accumulation account or a combination of both. This contract provision, together with the transfer provision described in (b), below, will afford each Contract owner maximum flexibility for maintaining what he considers to be a proper investment balance.

(b) An exemption is requested to permit the application of moneys in a Contract owner's fixed accumulation account to provide for (i) variable accumulation units during the accumulation period or (ii) a variable annuity upon retirement, without the imposition of a sales charge. These moneys will have been subject to sales charges equal to those which would have been imposed had they originally been paid into the Account.

(c) An exemption is requested to permit the application of a death benefit received by a beneficiary under a Contract to provide for a variable annuity, without the imposition of a sales charge. The benefit would be provided by the Contract owner's purchase payments which will have been subject to sales charges in connection with his accumulation.

(d) An exemption is requested to permit the crediting, under a flexible purchase payment Contract, of basic policy cash values (the entire value available upon surrender of a policy or contract) from an ordinary life insurance or fixed annuity contract issued by Mutual Benefit Life prior to the effective date of the Account and currently in force on a premium-paying basis, without the imposition of a sales charge. The payments which gave rise to these cash values will have been subject to sales charges approximately equal to those which would have been imposed had they originally been paid into the Account. Applicants represent that in most instances, such contracts issued by Mutual Benefit Life will have been in force only a short period of time and the servicing agent will be the original writing agent who was already adequately compensated for his efforts. Applicants state that exchanges of this type often arise when a client purchases an insurance contract which is most suitable at the time of purchase, but finds that the insurance company has later begun to sell a contract which more closely fits his actual needs. Therefore, Applicants do not believe the imposition of a sales charge is appropriate in exchanges of this type.

(e) An exemption is requested to permit the deduction for a single purchase payment Contract of a scale of reduced sales charges of 5½ percent on the first $5,000, plus 3½ percent of the next $45,000, plus 2 percent of the excess over $50,000, from the entire purchase payment made with death proceeds, maturity values and cash values arising from Mutual Benefit Life ordinary (individual) and group life insurance and fixed annuity contracts. The payments which gave rise to such proceeds will have been subject to sales charges approximately equal to those which would have been imposed had they originally been paid into the Account. Therefore, Applicants believe it would be inequitable to impose a full sales charge on purchases with

such moneys and that such a charge would tend, in practice, to discourage the use of a worthwhile device for investment planning. In addition, Applicants state that sales efforts made in connection with Mutual Benefit Life policyholders will not be as costly or burdensome to the agent as sales efforts made in connection with new prospects. However, in most instances, these contracts will have been in force for a substantial period of time and the servicing agent will not likely be the original writing agent. Applicants also allege that agents are entitled to a commission in that they aid prospective investors in the complex decision of how to balance their current financial needs with their future expected requirements. For these reasons, Applicants believe that a scale of reduced sales charges is appropriate.

(f) An exemption is requested to permit Contract owners to participate in the divisible surplus of Mutual Benefit Life. Applicants state that participation in the divisible surplus is a traditional method for a mutual insurance company to pass on a portion of the surplus, attributable to particular contracts, to the owners of such contracts. Applicants represent that Mutual Benefit Life does not believe that it is feasible to determine what portion of any surplus reflects solely more favorable mortality experience and what portion reflects lower sales expenses and lower administrative expenses. Furthermore, Applicants submit that it is not possible to determine, in advance, the amount of any divisible surplus, if any, and no dividends are expected to be payable on Variable Contract Accounts in the near future.

(g) A one-time enrollment fee of $15 is deducted from the first purchase payment made under the Contract. Applicants request an exemption to eliminate the deduction of such enrollment fee from any purchase payment made with death proceeds, maturity values and cash values of ordinary (individual) and group life insurance or fixed annuity contracts issued by Mutual Benefit Life and from which no sales charge or a reduced sales charge is deducted. The enrollment fee is designed to cover the nonrecurring expenses of processing each application form, including the setting up of permanent records. Mutual Benefit Life anticipates that it will incur lower expenses in the processing of application forms and setting up records for Contracts purchased with such proceeds, because most of the information required for the setting up of such records is already available, which justifies the waiver of any enrollment fee.

2. Applicants Mutual Benefit Life, FISCO, and VCA 2 request an exemption to permit a one-time enrollment fee of up to $15, which is deducted from the first purchase payment made for each participant, with moneys accumulated under Individual Tax-Qualified Variable Annuity Contracts funded through the Account. The enrollment fee is designed to cover the nonrecurring expenses of processing each participant's enrollment form, including the setting up of the participant's permanent records. Each VCA 2 Contract will specify the amount of the enrollment fee, based on Mutual Benefit Life's appraisal of the anticipated expenses of the group covered under the particular VCA 2 Contract. The amount of the enrollment fee will be less than $15 only to the extent that Mutual Benefit Life anticipates that it will incur lower expenses due to economies arising from (1) the size of a particular group, (2) the performance of processing operations for Individual Tax-Qualified Variable Annuity Contracts funded through the Account, or (3) the performance of processing operations by the VCA 2 Contract Holder which Mutual Benefit Life would otherwise be required to perform. Applicants submit that because the enrollment fee is designed only to recoup certain nonrecurring expenses, variations in the enrollment fee are necessary to avoid charging more than the expenses anticipated for the particular group covered.

Sections 26(a) and 27(c)(2).—Sections 26(a) and 27(c)(2) of the Act, in pertinent part, prohibit a depositor or principal underwriter for a registered unit investment trust from selling any security issued by the trust, unless the proceeds of all payments, other than sales load, are deposited with a qualified bank as custodian and are held by the custodian under an agreement which provides (1) that the trustee shall have possession of all property of the trust and shall segregate and hold the same in trust, (2) that the trustee shall not resign until either the trust has been liquidated or a successor bank has been appointed, (3) that the trustee may collect from income and, if necessary, from the corpus of the trust, fees for services performed and reimbursement of expenses incurred, and (4) that no payment to the depositor or principal underwriter shall be allowed the trustee as an expense except a fee, not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative services delegated to the depositor or principal underwriter.

Applicants assert that the use of a bank as custodian by the Account would be unnecessary and, accordingly, have requested exemption from the provisions of sections 26(a) and 27(c)(2). The assets of the Account will consist only of shares of the Fund which will be issued under an open account arrangement evidenced by entries in the books of the Fund and the Account rather than by transferable stock certificates. Applicants also assert that any custodian would necessarily be in the position of having to follow Mutual Benefit Life's instructions with respect to purchases and sales for the purpose of maintaining the Account's assets at levels defined by New Jersey law and determined on an actuarial basis, with the custodian having no way to verify, on the basis of its own expertise, whether the instructions are accurate.

Applicants further submit that the requested exemptions will not give rise to the abuses which section 26(a) and 27(c)(2) were designed to prevent. Mutual Benefit Life has engaged in business since 1845 and is presently the 14th largest life insurance company in the Nation based on total assets at December 31, 1971 of $2.7 billion. The operations of Mutual Benefit Life are regulated by the Department of Insurance of the State of New Jersey. Under New Jersey law, Mutual Benefit Life may not abandon its obligations to the Account's participants until they have been fully discharged. In addition, the officers, directors, and employees of Mutual Benefit Life are covered by a fidelity bond in the amount of $2 million. Applicants assert that under these circumstances, a custodian offers little significant protection against the orphanage of the Account that is not afforded by Mutual Benefit Life itself.

Applicants have consented that any order granting the requested exemptions may be subject to the conditions (i) that the charges under the Contracts for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, and that the Commission shall reserve jurisdiction for such purpose, and (ii) that the payment of sums and charges out of the assets of the Account shall not be deemed to be exempted from regulation by the Commission by reason of the requested order. However, Applicants' consent to these conditions shall not be deemed to be a concession to the Commission of authority to regulate the payment of sums and charges out of such assets, other than for administrative services, and Applicants reserve the right, in any proceeding before the Commission or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums and charges.

Section 11(a) of the Act, in pertinent part, prohibits an open-end investment company or its principal underwriter from making an offer of exchange to shareholders of another open-end investment company at other than the relative net asset values of the securities to be exchanged, unless Commission approval has first been given. Section 11(c) of the Act also requires prior Commission approval irrespective of the basis of the exchange if the offer involves any type of offer of exchange of the securities of registered unit investment trusts for securities of any other investment company.

Applicants Mutual Benefit Life, FISCO, and VCA 2 request an order under section 11 of the Act approving the crediting of any purchase payment made under a VCA 2 Contract, either for accumulation units or for variable annuities, with moneys accumulated under Individual Tax-Qualified Variable Annuity Contracts funded through the Account, without the imposition of a sales charge.

Applicants state that these moneys accumulated under Individual Tax-Qualified Variable Annuity Contracts will have been subject to sales charges approximately equal to those which would have been imposed had they originally been paid into VCA 2. Therefore, Applicants

believe that it would be inequitable to impose additional sales charges on purchases with such moneys which would tend to discourage the use of a worthwhile device for retirement and investment planning.

Applicants submit that it is expected that Contract owners under Individual Tax-Qualified Variable Annuity Contracts funded through the Account may be part of qualified plans which become, by virtue of subsequent expansion, large enough to meet the minimum purchase payment requirements under VCA 2 Contracts, as set forth above. Under these circumstances, Applicants will permit these Contract holders under such a plan to exchange their Contracts for participation under a VCA 2 Contract, without the imposition of a sales charge, giving them the advantages of the economies of scale available under the VCA 2 Contract such as lower sales charges and lower expense risk and mortality risk charges.

Applicants represent that an exchange of this nature, without the imposition of a sales charge, is a service of Mutual Benefit Life to the Contract owner under an Individual Tax-Qualified Variable Annuity Contract, and as such it is not a transaction for which a salesman should receive a commission.

Applicants submit that the objectives of section 11 of the Act will be fully satisfied and that the proposed offer of exchange is consistent with the policy and purpose of section 11 of the Act.

Section 6(c) of the Act authorizes the Commission to exempt any person, security, or transaction, from any provision of the Act and rules promulgated thereunder, 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.

Notice is hereby given that any interested person may, not later than June 22, 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 reason for such request, and the issues of fact 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 Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed 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.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-11240 Filed 6-5-73;8:45 am]

[File No. 500-1]

RADIATION SERVICE ASSOCIATES INC.

Order Suspending Trading

MAY 30, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.01 par value, of Radiation Service Associates, 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 May 31, 1973, through June 9, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-11241 Filed 6-5-73;8:45 am]

[File No. 500-1]

WESTGATE-CALIFORNIA CORP.

Order Suspending Trading

MAY 30, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the class A common stock ($5 par value), class B common stock ($5 par value), 6 percent cumulative preferred ($10 par value), 5 percent cumulative preferred ($70 par value), 6½ percent convertible subordinated debentures due 1987, 6 percent subordinated debentures due 1979 and all other securities of Westgate-California 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 May 31, 1973, through June 9, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-11242 Filed 6-5-73;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Notice of Disaster Loan Area 988]

COLORADO

Notice of Disaster Relief Loan Availability

As a result of the President's declaration of the State of Colorado as a major disaster area following heavy rains, snowmelt and flooding beginning on or about May 5, 1973, applications for disaster relief loans will be accepted by the Small Business Administration from flood victims in the following counties: Adams, Arapahoe, Boulder, Denver, Douglas, Elbert, El Paso, Jefferson, Larimer, Logan, Morgan, Pueblo, Sedgwick, Teller Washington, and Weld.

Applications may be filed at the:

Small Business Administraton,
Regional Office,
721-19th Street, room 426A,
Denver, Colo. 80202

and at such temporary offices as are established. Such addresses will be announced locally. Applications will be processed under the provisions of Public Law 93-24.

Applications for disaster loans under this announcement must be filed not later than July 26, 1973.

Dated May 29, 1973.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.73-11263 Filed 6-5-73;8:45 am]

[License No. 05/05-5091]

GLENCO ENTERPRISES, INC.

Notice of Issuance of License To Operate as a Small Business Investment Company

On January 12, 1973, a notice was published in the FEDERAL REGISTER (38 FR 1421) stating that Glenco Enterprises, Inc., 1257 East 105 Street, Cleveland, Ohio 44106, had filed an application with the Small Business Administration, pursuant to 13 CFR 107.701 (1973) for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended (the Act).

Interested parties were given to the close of business January 27, 1973, to submit their written comments to SBA.

Notice is hereby given that, having considered the application and all other pertinent information, SBA has issued license No. 05/05-5091 to Glenco Enterprises, Inc., pursuant to section 301(d) of the Small Business Investment Act of 1958, as amended.

Dated May 29, 1973.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.73-11260 Filed 6-5-73;8:45 am]

SBA-GUARANTEED SBIC DEBENTURES DUE 1983

Invitation To Bid

The Small Business Administration (SBA), pursuant to the authority of the Small Business Investment Act of 1958, as amended, invites bids for an issue of approximately $25 million debentures issued by small business investment companies (SBIC's) and guaranteed as to principal and interest by SBA. The exact principal amount will be determined on June 6, 1973, and incorporated in the final papers. A description of the debentures and SBA's guaranty, together with the bid requirements, are set forth in the Notice of Sale. The documents referred to therein are available from SBA. Bids should be submitted in the manner provided by the Official Form of Proposal. The Notice of Sale and the Official Form of Proposal are as follows:

NOTICE OF SALE
OF
$
% DEBENTURES DUE JUNE 1, 1983

FULLY GUARANTEED AS TO PRINCIPAL AND INTEREST BY THE SMALL BUSINESS ADMINISTRATION

ISSUED BY
SMALL BUSINESS INVESTMENT COMPANIES

As more fully described in the Preliminary Prospectus relating thereto,[1] $ aggregate principal amount of Debentures due June 1, 1983 (the "Debentures") will be issued by certain Small Business Investment Companies and will be fully guaranteed as to principal and interest by the Small Business Administration (the "SBA"). Sealed proposals for the purchase of all of the Debentures shall be hand delivered to the SBA at the office of Brown, Wood, Fuller, Caldwell & Ivey, One Liberty Plaza, 35th Floor, New York, New York on June 13, 1973 and must be received by the SBA at such place prior to 11:00 o'clock a.m. (E.D.T.), at which time and place all proposals will be publicly opened and announced.

The SBA reserves the right to advance or postpone from time to time in its discretion the time for presentation and opening of bids and to change the place where bids must be presented to the SBA and will give notice, confirmed in writing or by telegram, of any such advancement or postponement or change in the place where bids are to be presented to each bidder who shall have advised the SBA in writing of an intention to bid. In the event of any such postponement each bid theretofore presented shall be returned unopened to the bidder.

Timely payment of the principal of and interest on the Debentures will be guaranteed by the SBA acting pursuant to section 303(b) of the Small Business Investment Act of 1958, as amended, which provides that the full faith and credit of the United States is pledged to the payment of all amounts required to be paid pursuant to this guaranty.

The Debentures, to be issued in principal amounts of $10,000 each, will be dated and bear interest from June 27, 1973, and will mature on June 1, 1983. The Debentures will not be subject to redemption or prepayment prior to maturity.

The Debentures will bear interest at the rate specified in the proposal of the successful bidder in accordance with this Notice of Sale. Interest will be payable on June 1 and December 1 in each year. The principal of and interest on the Debentures will be payable at the principal office of the Federal Reserve Bank of New York, as Fiscal Agent of the SBA.

As described in the Preliminary Prospectus, the Debentures will be offered pursuant to Guaranty Agreements[1] covering a specific Debenture or Debentures identified in a debenture register maintained by the SBA. The Debentures represented by the Guaranty Agreements will be held by, and be payable to, the SBA, as bailee for holders of Guaranty Agreements, and the SBA, as collection agent, will remit payments of principal and interest on the Debentures to such holders through its Fiscal Agent. The successful bidder (the term "bidder" as used herein applying to a single bidder or, in the case of a group of bidders, to such group) shall be deemed to have designated the SBA to act as bailee of the Debentures in accordance with the Guaranty Agreements.

Each proposal must be submitted on the Official Form of Proposal referred to in the closing paragraph of this Notice of Sale and must represent a bid of not less than 99% nor more than 101% of the principal amount of all the Debentures, plus interest, if any, accrued thereon to the date of delivery, and must specify in a multiple of ⅛ or 1/20 of 1% the rate per annum of interest which the Debentures are to bear. Only one interest rate may be specified for the Debentures. Each proposal must be enclosed in a sealed envelope and should be addressed to the Small Business Administration in care of the addressee specified in the first paragraph hereof and be marked on the outside, in substance, "Proposal for Debentures." Each proposal must be submitted in duplicate, and each counterpart must be signed by the bidder.

Each bid must be accompanied by a certified or official bank check or checks in the amount of $500,000, payable in New York Clearing House funds to the order of the Federal Reserve Bank of New York, to be held and disposed of by the SBA as hereinafter provided.

The right is reserved by the SBA pursuant to authority vested in it by the issuing SBICs to reject all proposals, or any proposal not conforming to this Notice of Sale or not on the Official Form of Proposal (without alteration except for the insertions required by the form). The right is also reserved to waive, if permitted by law, any irregularity in any proposal.

As between legally acceptable proposals complying with this Notice of Sale, the Debentures will be sold to the bidder whose bid shall result in the lowest basis cost of money computed from June 27, 1973 to the maturity date of the Debentures. Such lowest basis cost of money will be determined by reference to a specially prepared table of bond yields, a copy of which is available for examination by prospective bidders at the national office of the SBA. Straight-line interpolation will be applied if necessary. If it should be necessary to make such a determination for a coupon rate not shown in said table of bond yields, reference will be made to other tables of bond yields. The decision of the SBA, acting pursuant to authority vested in it by the issuing SBICs, as to the lowest basis cost of money shall be conclusive. If two or more bids provide the identical lowest basis cost of money, the SBA (unless it shall reject all bids) will give the makers of such identical resulting bids an opportunity to submit improved bids within such time as the SBA shall specify, but in no case later than two hours after the opening of such bids. If no improved bid is made by the makers of such identical resulting bids within the time specified by the SBA, or if upon such rebidding two or more improved bids again provide the identical basis cost of money, the SBA in its discretion may, within two hours after the time specified for such rebidding, accept by lot any one of the identical resulting bids or may reject all bids.

Proposals will be accepted or rejected promptly but not later than 3:00 o'clock p.m. E.D.T. on the date set for receiving proposals. When the successful bidder has been ascertained, the SBA will promptly accept the proposal of such bidder by executing and delivering to such successful bidder the duplicate of its proposal, whereupon the Purchase Agreement attached as an exhibit to the Official Form of Proposal will become effective without any separate execution thereof, and thereafter all rights of SBA, the issuing SBICs and the successful bidder shall be determined solely in accordance with the terms thereof.

If a bid is not accepted, the SBA will return to the bidder the check or checks deposited with such bid. If a bid is accepted, the amount of the check or checks deposited therewith will be retained by the SBA as security for the performance of the obligation of the bidder under such bid and will be held and disposed of in accordance with the terms of the Purchase Agreement.

As soon as practicable after the successful bidder is ascertained, the SBA will modify the Preliminary Prospectus relating to the Debentures to reflect the effect of the proposal of the successful bidder, and the document so modified will constitute the Prospectus. The SBA will then furnish the successful bidder with copies of the Prospectus in reasonable quantity as required by it in connection with the public offering and sale of the Debentures, including one copy thereof signed manually by the Associate Administrator for Finance and Investment or the General Counsel or Acting General Counsel of the SBA.

The successful bidder will be furnished, without cost, the opinion of the General Council or Acting General Counsel of the SBA,[1] as to the validity of the Debentures and the guaranty by the SBA of the payment of the principal of and interest on such Debentures, such opinion to be in substantially the form annexed to the Purchase Agreement.

Messrs. Brown, Wood, Fuller, Caldwell & Ivey, New York, New York, will act as counsel for the successful bidder and will furnish an opinion at the closing substantially in the form annexed to the Purchase Agreement. Such counsel will also prepare memoranda with respect to (1) the status of the Debentures for sale under the securities or Blue Sky laws of various states and (2) the legality of the Debentures for investment by certain institutions in various states. The compensation and disbursements of such counsel are to be paid by the successful bidder under the terms of the Purchase Agreement. Said counsel will, on request, advise any prospective bidders of the amount of such compensation and estimated disbursements to be paid by the successful bidder.

A Guaranty Agreement (in temporary form) representing all the Debentures will be delivered at the office of the Federal Reserve Bank of New York, 90 William Street, New York, N.Y. on June 27, 1973, at 10:00 o'clock a.m. e.d.t., or such other place, date and time as may mutually be agreed upon, at which time the successful bidder shall pay the purchase price by one or more checks payable in federal funds to the order of "Federal Reserve Bank of New York."

The Guaranty Agreements representing the Debentures will be delivered in definitive form on July 16, 1973, in exchange for the temporary Guaranty Agreement, in such

[1] Filed as part of the original document.

denominations (in integral multiples of $10,000) and registered in such names as shall be requested by the successful bidder on or before July 6, 1973.

Copies of the Preliminary Prospectus dated June 6, 1973, relating to the Debentures, the Official Form of Proposal, the Purchase Agreement with the form of Guaranty Agreement attached and the preliminary Blue Sky and legal investment memoranda will be furnished upon application to the SBA.

SMALL BUSINESS ADMINISTRATION,
By DAVID A. WOLLARD,
Associate Administrator for Finance and Investment.

Dated June 6, 1973.

OFFICIAL FORM OF PROPOSAL
FOR
$
% DEBENTURES DUE JUNE 1, 1983
FULLY GUARANTEED AS TO PRINCIPAL AND INTEREST
BY THE
SMALL BUSINESS ADMINISTRATION

ISSUED BY
SMALL BUSINESS INVESTMENT COMPANIES

JUNE 13, 1973.

SMALL BUSINESS ADMINISTRATION,
c/o Brown, Wood, Fuller, Caldwell & Ivey,
1 Liberty Plaza,
New York, N.Y. 10006.

GENTLEMEN: Subject to the provisions and in accordance with the terms of the Notice of Sale (the "Notice of Sale"), which is hereby made a part of this proposal, the undersigned (the "Representatives"), on behalf of the persons, firms and corporations named in Schedule A[1] of the Purchase Agreement attached hereto (the "Purchase Agreement"), as the same may be changed by the Representatives subject to the provisions hereof (the "Purchasers"), severally and not jointly, hereby offer to purchase (for resale to the public) on the terms and conditions set forth in this proposal and the Purchase Agreement all of the $ aggregate principal amount of Debentures due June 1, 1983 to be issued by certain Small Business Investment Companies ("SBICs") and to be fully guaranteed as to principal and interest by the Small Business Administration (the "SBA") (such $ principal amount of Debentures being hereinafter referred to as the "Debentures"), at the price of % of the principal amount thereof plus interest, if any, accrued thereon from June 27, 1973 to the date of their delivery. The Representatives are Purchasers and represent and warrant to the SBA that they have all necessary power and authority to act for each of the Purchasers.

Said Debentures shall bear interest at the rate of % per annum.

Receipt of the Notice of Sale, the Purchase Agreement and the Preliminary Prospectus, dated June 6, 1973, prepared in connection with the sale of the Debentures, is hereby acknowledged.

Changes may be made by the Representatives as to the Purchasers (others than the Representatives) set forth in Schedule A and as to the respective principal amounts of Debentures set opposite their respective names in Schedule A, provided that any Debentures not purchased as a result of such changes shall be purchased severally by the Representatives in proportion to their respective commitments hereunder.

If this bid shall be approved by the SBA as resulting in the lowest basis cost of money, computed as provided in the Notice of Sale, the Representatives will, promptly upon receipt of notification from the SBA and prior to completion by the SBA of the form of acceptance set forth below, supply to the SBA any such changes to Schedule A.

There are enclosed herewith a certified or official bank check or checks in the aggregate amount of $500,000 being the deposit required by the Notice of Sale, payable in New York Clearing House funds to the order of the Federal Reserve Bank of New York, to be held and disposed of by the SBA in accordance with the Notice of Sale.

In consideration of the agreement of the SBA set forth in the Notice of Sale, the Representatives agree on behalf of each of the Purchasers that: (a) The offer of such Purchaser included in this proposal shall be irrevocable until 3 o'clock p.m., e.d.t., on the date hereof unless sooner rejected by the SBA; and (b) when all changes, if any, to Schedule A to the Purchase Agreement attached hereto shall be made and this bid accepted by the SBA by execution of the form of acceptance set forth below, said Purchase Agreement shall become effective without any separate execution thereof and shall be deemed to be dated the date hereinbelow set forth, and thereafter all rights of the SBA, the SBICs and of the Purchasers shall be determined solely in accordance with the terms of said Purchase Agreement.

This Official Form of Proposal must be submitted in duplicate and shall be deemed rejected by the SBA unless accepted by the SBA prior to 3 o'clock p.m., e.d.t., on the date hereof.

Very truly yours,

By _____
On behalf of and as the Representatives of the person(s), firm(s) and/or corporation(s) named or to be named in Schedule A to the Purchase Agreement hereto attached.

Accepted this 13th day of June, 1973.
SMALL BUSINESS ADMINISTRATION,

By _____

$

% DEBENTURES DUE JUNE 1, 1983

FULLY GUARANTEED AS TO PRINCIPAL AND INTEREST BY THE
SMALL BUSINESS ADMINISTRATION

ISSUED BY
SMALL BUSINESS INVESTMENT COMPANIES

PURCHASE AGREEMENT

The person(s), firm(s), and/or corporation(s) who executed the Official Form of Proposal to which this Purchase Agreement is attached (the "Representatives"), acting for and in behalf of themselves and the other Purchasers named in Schedule A hereto (herein called the "Purchasers") for whom they are acting as Representatives for the purposes of this Agreement as set forth below, hereby confirm their agreement with the Small Business Administration (herein called "SBA"), an agency of the United States acting pursuant to authorization on behalf of certain Small Business Investment companies ("SBICs"), for the purchase by the Purchasers, acting severally and not jointly, and the sale by the SBICs of $ aggregate principal amount of % Debentures due June 1, 1983 to be issued by the SBICs and to be fully guaranteed as to principal and interest by SBA (such $ principal amount of % Debentures due June 1, 1983 being hereinafter referred to as the "Debentures"). Each Debenture is to be in the principal amount of $10,000 and ownership of the Debentures is to be evidenced by Guaranty Agreements (herein called the "Guaranty Agreements") in substantially the form attached hereto as Schedule B. The Representatives represent and warrant that as such Representatives they have been authorized by the other Purchasers to enter into and execute this Agreement on their behalf and to act for them in the manner provided herein.

Section 1. *Purchase and Sale.* Upon the terms and conditions and upon the basis of the representations, warranties and agreements herein set forth, SBA agrees, pursuant to authorization from the SBICs, to cause such SBICs to sell to the Purchasers and the Purchasers agree, severally and not jointly, to purchase from the SBICs, the respective principal amounts of Debentures set forth opposite the names of the Purchasers in Schedule A hereto at the purchase price set forth in the Official Form of Proposal to which this Purchase Agreement is attached, plus interest, if any, accrued thereon from June 27, 1973 to the date of Closing (hereinafter defined). The Purchasers contemplate a public offering of the Debentures. SBA agrees to (a) assemble the Debentures as agent for the SBICs for sale to the Purchasers; (b) accept delivery of the Debentures as bailee pursuant to the Guaranty Agreements; (c) make delivery of the Guaranty Agreements as provided in Section 3 hereof; and (d) direct the Federal Reserve Bank of New York to distribute to the SBICs the purchase price for the Debentures, less any costs incident to the sale of the Debentures (see Section 7 herein), paid by the Purchasers to the Federal Reserve Bank of New York for the account of the SBICs.

Section 2. *Representations, Warranties and Agreements of SBA.* SBA represents, warrants, and agrees with the Purchasers that:

(a) The Guaranty Agreements, when executed and delivered at the Closing, will be in substantially the form attached hereto as Schedule B and will be legal, valid and binding undertakings of SBA in accordance with their terms.

(b) The Debentures are identified in a debenture register maintained at SBA, and SBA has full power and authority on behalf of the SBICs to deliver such Debentures in accordance herewith and to receipt for the purchase price therefor upon payment thereof by the Purchasers to the Federal Reserve Bank of New York for the account of the SBICs.

(c) SBA has full power and authority to accept the Debentures as bailee on behalf of the holders of Guaranty Agreements and, upon delivery thereof to SBA as herein and in the Guaranty Agreements provided, the holders of Guaranty Agreements will have title to the Debentures, subject to no prior liens or restrictions.

(d) The guaranty by SBA of the Debentures is in conformity with Section 303(b) of the Small Business Investment Act of 1958, as amended, and will be within the limitations set forth in Section 4(c)(4)(B) of the Small Business Act and the authority of SBA under and pursuant to Public Law 92-544, in each case after giving effect to all other loans, guaranties and other obligations or commitments outstanding pursuant to Title III of the Small Business Investment Act of 1958.

Section 3. *Payment for and Delivery of Debentures*—Closing. Payment of the purchase price for the Debentures shall be made at the office of the Federal Reserve Bank of New York, 90 William Street, New York, New York, or at such other place as shall be agreed upon by SBA and the Representatives, at 10:00 a.m., E.D.T. on June 27, 1973 (the "Closing"). The Closing may be postponed to such later time or date as shall be agreed upon by SBA and the Representatives. Such payment shall be made to the Federal Reserve Bank of New York for the account of

[1] Filed as part of the original document.

the SBICs by the Purchasers, or the Representatives on their behalf, in federal funds, against delivery of the Debentures to SBA, as bailee, pursuant to the Guaranty Agreements and against delivery of the Guaranty Agreements to or upon the order of the Representatives for the respective accounts of the Purchasers. Delivery of the Guaranty Agreements at the Closing shall be effected by delivery to such person, firm or corporation as shall be designated by the Representatives, of one Guaranty Agreement in temporary form evidencing ownership of the Debentures.

Section 4. *Security.* SBA acknowledges receipt of an amount equal to that required to be deposited in connection with the bid by the Notice of Sale from the Representatives on behalf of the several Purchasers, which deposit has been made by the Purchasers in proportion to the principal amount of Debentures set forth opposite their names in Schedule A hereto. If the Purchasers comply with their obligations hereunder to accept and pay for the Debentures, such amount, without interest, shall be applied to the aggregate purchase price of the Debentures as provided in Section 1 hereof. In the event of termination of this Agreement by reason of failure by SBA to deliver the Guaranty Agreements on the date of Closing, or for any other reason permitted by this Agreement, other than pursuant to Section 10 hereof, such amount shall be returned immediately without interest, by SBA to the Representatives for the accounts of the several Purchasers. If, on the date of Closing, any Purchaser shall not accept and pay for the Debentures which such Purchaser has agreed to purchase, then (i) as to any Purchaser whose nonacceptance or nonpayment constituted a default hereunder, the portion of such sum delivered to SBA on behalf of such Purchaser shall be retained by SBA as liquidated damages for such failure, provided, that if any Debentures agreed to be purchased by such Purchaser shall be purchased and paid for by the remaining Purchasers, or by any substitute Purchaser or Purchasers procured by nondefaulting Purchasers, as provided in Section 10 hereof, SBA shall return to the Representatives such portion, less the amount of any expenses of SBA caused by the failure or refusal of such Purchaser to purchase and pay for Debentures, and (ii) as to any Purchaser whose nonacceptance or nonpayment did not constitute a default hereunder, SBA shall return to the Representatives, for the account of such Purchaser, without interest, the amount of the deposit made on its behalf.

Section 5. *Prospectus.* SBA has heretofore furnished to the Representatives copies of a Preliminary Prospectus relating to the Debentures and Guaranty Agreements. SBA agrees that, as soon as practicable after this Agreement becomes effective, it will complete the Preliminary Prospectus and will make such changes therein as it may deem advisable and as shall be approved by the Representatives as to form and substance and as not involving a material adverse change from the Preliminary Prospectus, and that one or more copies thereof as so completed and changed (the "Prospectus") will be executed on behalf of SBA by its authorized representative, dated the date the proposal was accepted by SBA, and delivered to the Representatives on or prior to the date of Closing. SBA hereby authorizes the Purchasers to use the Prospectus in connection with the public offering and sale of the Debentures.

SBA represents and warrants to each of the Purchasers that the statements and information contained in the Prospectus at the date thereof and at the date of Closing will be true, correct and complete in all material respects, and the Prospectus as of such times will not omit any statement or information which should be included therein for the purpose for which it is to be used or which is necessary to make the statements and information contained therein not misleading in any material respect, except as such statements and information may have been furnished in writing by the Purchasers expressly for use in the Prospectus.

Section 6. *Blue Sky Qualification.* SBA agrees to cooperate with the Purchasers in qualifying the Debentures for offering and sale under the securities or Blue Sky laws of such jurisdiction as may be designated by the Representatives, provided that SBA shall not be required to file any general consent to service of process under the laws of any such jurisdiction, and that any applications required in connection therewith shall be prepared on behalf of SBA by counsel for the Purchasers and, to the extent permitted by law, filed by such counsel on behalf of SBA.

Section 7. *Payment of Expenses.* The Purchasers shall be under no obligation to pay any expenses incident to the performance of the obligations of SBA hereunder including, but not limited to, the cost of printing or other reproduction and delivery of the Bidding Papers, the Preliminary Prospectus, the Prospectus, the Debentures, the Guaranty Agreements, the memoranda referred to in the Notice of Sale, and the opinion of the General Counsel or Acting General Counsel of SBA. The Purchasers agree to pay all their expenses, including the fees and disbursements of counsel for the Purchasers, incurred in connection with the Debentures or Guaranty Agreements.

Section 8. *Conditions of Purchasers' Obligations.* The obligations of the Purchasers to purchase and pay for the Debentures shall be subject to the accuracy of the representations and warranties on the part of SBA and to the performance of its obligations to be performed hereunder prior to the Closing, and to the following further conditions:

(a) At the time of Closing, the Representatives shall have received the favorable opinions of the General Counsel or Acting General Counsel of SBA and Brown, Wood, Fuller, Caldwell & Ivey, counsel for the Purchasers,* each dated the date of Closing, substantially in the forms of Exhibits A and B to this Agreement.

(b) At the time of Closing, the Representatives shall have received a certificate of SBA dated the date of Closing, signed by the Administrator or Deputy Administrator of SBA, to the effect that:

(i) the representations and warranties of SBA contained herein are true and correct as if made as of the time of Closing; and

(ii) the Debentures have been delivered to SBA, as bailee, in accordance herewith and pursuant to the Guaranty Agreements.

If any conditions contained in this Agreement shall not be satisfied or if the obligations of the Purchasers shall be terminated for any reason permitted by this Agreement, this Agreement shall terminate and neither the Purchasers nor SBA nor the SBICs shall be under further obligation hereunder except that the deposit referred to in Section 4 shall be returned by SBA to the Representatives.

Section 9. *Termination of Agreement.* The Representatives shall have the right to terminate this Agreement by giving the notice indicated below in this Section, at any time at or prior to the Closing (a) if there shall have occurred any new outbreak of hostilities or other national or international calamity or development the effect of which on the financial markets of the United States shall be such as, in the judgment of the Representatives, makes it impracticable for the Purchasers to sell the Debentures, (b) if trading on the New York Stock Exchange shall have been suspended or maximum or minimum prices for trading shall have been fixed, or maximum ranges for prices for securities on the New York Stock Exchange shall have been required by that Exchange or by order of any governmental authority having jurisdiction, (c) if a banking moratorium shall have been declared by Federal authorities, or (d) if there shall have been enacted legislation which would adversely affect SBA's power as described in the Prospectus to guarantee the Debentures. If the Representatives shall elect to terminate this Agreement as provided in this Section, SBA shall be notified promptly by the Representatives, by telephone or telegram, and such notice confirmed by letter. If this Agreement shall be terminated as provided in this Section, neither the Purchasers nor the SBICs nor SBA shall be under further obligation hereunder except that the deposit referred to in Section 4 shall be returned by SBA to the Representatives.

Section 10. *Substitution of Purchasers or Increase in Purchaser's Commitments.* If for any reason one or more of the Purchasers shall fail at the Closing to purchase the Debentures which they have agreed to purchase hereunder (the "Unpurchased Debentures"), then:

(a) If the aggregate principal amount of Unpurchased Debentures does not exceed $, the remaining Purchasers shall be obligated to purchase the full amount thereof, in proportion to their respective commitments hereunder.

(b) If the aggregate principal amount of Unpurchased Debentures exceeds $, any of the remaining Purchasers selected by the Representatives, or any other purchasers the Representatives select, shall have the right within 24 hours after the Closing to purchase or procure purchasers for all, but not less than all, of such Unpurchased Debentures in such amounts as may be agreed upon; and if the remaining Purchasers shall not agree to purchase and/or procure a party or parties to agree to purchase such Debentures on such terms within such period, then SBA shall be entitled to an additional period of 24 hours in which to procure another responsible party or parties to agree to purchase such Debentures on such terms. If neither the remaining Purchasers nor SBA shall procure another party or parties to agree to purchase such Debentures within the aforesaid periods, then SBA may, at its option, by written notice delivered to the Purchasers no later than 72 hours after the Closing, elect to proceed with the sale to the remaining Purchasers of the Debentures which they have agreed to purchase. In the absence of the exercise of such option this Agreement shall terminate.

The termination of this Agreement pursuant to this Section shall be without liability on the part of SBA, the SBICs or any of said remaining Purchasers.

Nothing herein shall relieve any Purchaser so defaulting from liability, if any, for such default.

In the event of a default by any one or more Purchasers as set forth in this Section, either the Representatives or SBA shall have the right to postpone the Closing for an additional period of not exceeding 5 business days in order that any required changes in any documents or arrangements may be effected.

Section 11. *Representations, Warranties and Agreements to Survive Delivery.* All representations, warranties, agreements and covenants contained in this Agreement shall remain operative and in full force and effect regardless of any investigation made by or on behalf of any Purchaser or by or on behalf of SBA, and shall survive delivery of the Debentures to the Purchasers.

*Filed as part of the original document.

Section 12. *Notices.* Except as herein otherwise provided, all communications hereunder shall be in writing and, if sent to the Purchasers, shall be mailed, delivered, or telegraphed and confirmed in writing to the Representatives to the care of and at the address of the first Representative appearing in Schedule A hereto[1] or, if sent to SBA, shall be mailed, delivered or telegraphed and confirmed in writing to 1441 L Street NW., Washington, D.C. 20416, attention of the Administrator or Acting Administrator, and a copy of each notice shall be furnished to the General Counsel or Acting General Counsel of SBA.

Bids will be opened at the office of Brown, Wood, Fuller, Caldwell & Ivey, 1 Liberty Plaza, 35th floor, New York, N.Y., at 11 a.m., e.d.t., on June 13, 1973. SBA reserves the right to reject all bids.

Dated May 31, 1973.

DAVID A. WOLLARD,
Associate Administrator for Finance and Investment.

[FR Doc.73-11176 Filed 6-5-73;8:45 am]

[Notice of Disaster Loan Area 974, Amendment 2]

ILLINOIS

Notice of Disaster Relief Loan Availability

As a result of the President's declaration of the State of Illinois as a major disaster area following flooding, high winds, and lake storms beginning on or about March 1, 1973, applications for disaster relief loans will be accepted by the Small Business Administration from flood victims in the following additional counties: Kankakee, Logan, Menard, Morgan, and Pulaski. (See 38 FR 12179 and 38 FR 13586.)

Applications may be filed at the:

Small Business Administration, Branch Office, Ridgely Building, room 816, 502 East Monroe Street, Springfield, Ill. 62701.

and at such temporary offices as are established. Such addresses will be announced locally. Applications will be processed under the provisions of Public Law 92-385.

Applications for disaster loans under this announcement must be filed not later than July 16, 1973.

Dated May 17, 1973.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.73-11262 Filed 6-5-73;8:45 am]

[Notice of Disaster Loan Area 987]

IOWA

Notice of Disaster Relief Loan Availability

As a result of the President's declaration of the State of Iowa as a major disaster area following severe storms and flooding beginning on or about March 13, 1973, applications for disaster relief loans will be accepted by the Small Business Administration from flood victims in the following counties: Adams, Appanoose, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Keokuk, Lee, Louisa, Lucas, Madison, Mahaska, Marion, Monroe, Muscatine, Ringgold, Scott, Van Buren, Warren, Wapello, and Wayne.

Applications may be filed at the:

Small Business Administration, District Office, 210 Walnut Street, Des Moines, Iowa 50309.

and at such temporary offices as are established. Such addresses will be announced locally. Applications will be processed under the provisions of Public Law 92-385.

Applications for disaster loans under this announcement must be filed not later than July 26, 1973.

Dated May 29, 1973.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.73-11265 Filed 6-5-73;8:45 am]

[Notice of Disaster Loan Area 989]

MAINE

Notice of Disaster Relief Loan Availability

As a result of the President's declaration of the State of Maine as a major disaster area following heavy rains and flooding beginning on or about April 24, 1973, applications for disaster relief loans will be accepted by the Small Business Administration from flood victims in the following counties: Aroostook, Penobscot, and Washington.

Applications may be filed at the:

Small Business Administration, District Office, 40 Western Avenue, Augusta, Maine 04330.

and at such temporary offices are established. Such addresses will be announced locally. Applications will be processed under the provisions of Public Law 93-24.

Applications for disaster loans under this announcement must be filed not later than July 26, 1973.

Dated May 29, 1973.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.73-11264 Filed 6-5-73;8:45 am]

[Notice of Disaster Loan Area 973, Amendment 2]

MISSOURI

Amendment to Notice of Disaster Relief Loan Availability

As a result of the President's declaration of the State of Missouri as a major disaster area following heavy rains and and flooding beginning on or about March 6, 1973, applications for disaster relief loans will be accepted by the Small Business Administration from flood victims in the following additional counties: Benton, Johnson, Monroe, Pettis, Randolph, and Schuyler. (See 38 FR 10339 and 38 FR 12179.)

Applications may be filed at the:

Small Business Administration, District Office, 210 North 12th Street, room 520, St. Louis, Mo. 63101

and at such temporary offices as are established. Such addresses will be announced locally.

Applications for disaster loans under this announcement must be filed not later than July 16, 1973.

Dated May 18, 1973.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.73-11261 Filed 6-5-73;8:45 am]

[Delegation of Authority No. 30-VII, Amendment 2]

CHIEF, REGIONAL FINANCING DIVISION ET AL.

Delegation of Authority To Conduct Program Activities in the Field Offices

Delegation of Authority No. 30-VII (37 FR 17616), as amended (38 FR 6110), is hereby further amended to include authority for chief, District Administrative Divisions to rent motor vehicles and garage space. Part VIII 3. is revised to read as follows:

* * * * *

PART VIII—ADMINISTRATIVE

SECTION A. Authority to purchase, or contract for equipment, services, and supplies—

* * * * *

3. To rent motor vehicles and garage space for the storage of such vehicles when not furnished by this Administration.

(1) Chief, Regional Administrative Division.

(2) Regional office services manager.

(3) District directors.

(4) Chief, District Administrative Divisions.

* * * * *

Effective date.—July 1, 1972.

C. I. MOYER,
Regional Director, Region VII.

[FR Doc.73-11267 Filed 6-5-73;8:45 am]

INTERSTATE COMMERCE COMMISSION

[ICC Order No. 98; Rev. S.O. 944; Amendment No. 1]

ANN ARBOR RAILROAD CO.

Rerouting or Diversion of Traffic

Upon further consideration of ICC order No. 98 (the Ann Arbor Railroad Co.) and good cause appearing therefor:

It is ordered, That:

ICC order No. 98 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) therefor:

(g) *Expiration date.*—This order shall expire at 11:59 p.m., June 15, 1973, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., May 31, 1973, and that this order 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

[1] Filed as part of the original document.

under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 29, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] LEWIS R. TEEPLE,
Agent.

[FR Doc.73-11305 Filed 6-5-73;8:45 am]

[Ex Parte No. 241; Exemption No. 42]

ILLINOIS CENTRAL GULF RAILROAD CO.

Exemption Under Mandatory Car Service Rules

It appearing that there is an emergency movement of three trainloads of concrete pipe from Price, Miss., to Spring City, Tenn., requiring the use of forty-six 70-ton flatcars capable of handling concentrated loads; that these shipments will move in three consecutive train-lot movements; that the carriers involved are unable to supply sufficient cars of their own ownerships capable of handling these shipments; and that suitable cars of other ownerships can be made available to transport these shipments.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, the Illinois Central Gulf Railroad Co. be, and it is hereby, authorized to accept from shipper at Price, Miss., and transport to Spring City, Tenn., routed via its line thence Southern Railway Co.; and the Southern Railway Co. is authorized to return empty cars to Price, Miss., via reverse of loaded route, 3 trains of 46 flatcars of various ownership without regard to the provisions of Car Service Rules 1 and 2.

Effective May 24, 1973.

Expires July 10, 1973.

Issued at Washington, D.C., May 24, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.73-11304 Filed 6-5-73;8:45 am]

[Notice 267]

ASSIGNMENT OF HEARINGS

JUNE 1, 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 108461 sub 120, Whitfield Transportation, Inc., is continued to July 10, 1973, at New Mexico Motor Carriers Association, 1500 Hennett Avenue NE., Albuquerque, N. Mex.

I. and S. M-26750, rate increases for under 1,000 pounds, central and southern region, and I. and S. M-26750 sub 1, rate increases for under 1,000 pounds, central and southern region, now assigned June 25, 1973, at Washington, D.C., is canceled.

MC-20783 sub 88, Tompkins Motor Lines, Inc., is continued to July 23, 1973 (1 week), at Birmingham, Ala., in a hearing room to be later designated.

MC 76297, Richard Dean Wendelken, doing business as Rubber City Express, now assigned June 13, 1973, at Washington, D.C., is canceled and the petition is dismissed.

MC 127042 sub 97, Hagen, Inc., now assigned June 28, 1973, at Omaha, Nebr., is canceled and the application is dismissed.

MC-78276 sub 6, Mazzeo & Sons Express, now assigned June 6, 1973 at Miami, Fla., is canceled and the application dismissed.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.73-11308 Filed 6-5-73;8:45 am]

[Notice 43]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JUNE 1, 1973.

The following publications (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 the new special rule 1100.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable by the Commission.

MOTOR CARRIERS OF PROPERTY

APPLICATIONS ASSIGNED FOR ORAL HEARING

No. MC 123681 (sub-No. 25), filed May 17, 1973. Applicant: WIDING TRANSPORTATION, INC., P.O. Box 03159, Portland, Oreg. 97203. Applicant's representative: Earle V. White, 2400 Southwest Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Iron and steel, and iron and steel articles,* (1) between points in Idaho, Oregon, and Washington; and (2) between points in Oregon and Washington on the one hand, and, on the other, points in Montana and Utah.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority.

HEARING: June 18, 1973 (1 week) in the Benson Hotel, 309 Southwest Broadway, Portland, Oreg.; July 9, 1973 (1 week) in the Westbury Hotel, 480 Sutter Street, San Francisco, Calif.; and on July 16, 1973 (1 week) in the Roadway Inn, 154 West Six South Street, Salt Lake City, Utah. All hearings will commence at 9:30 a.m., d.s.t. (or 9:30 a.m., U.S. standard time, if that time is observed).

No. MC 129631 (sub-No. 38), filed May 25, 1973. Applicant: PACK TRANSPORT, INC., 3975 South Second West, Salt Lake City, Utah 84107. Applicant's representative: Harry D. Pugsley, 400 El Paso Gas Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Iron and steel articles,* as described in appendix V to the report in "Decriptions in Motor Carrier Certificates," 61 M.C.C. 209, (1) between points in Utah, on the one hand, and, on the other, points in Idaho, Oregon, Washington, and Montana, and (2) from points in Oregon and Washington to points in Idaho.

NOTE.—Applicant also holds contract carrier authority under MC 101741, therefore dual operations and common control may be involved. Applicant states the requested authority can be tacked with its existing authority under MC 129631 (sub-Nos. 4 and 6) to serve points in Wyoming; and (sub-No. 18) to serve points in Idaho.

HEARING: June 18, 1973 (1 week) in the Benson Hotel, 309 Southwest Broadway, Portland, Oreg.; July 9, 1973 (1 week) in the Westbury Hotel, 480 Sutter Street, San Francisco, Calif.; and on July 16, 1973 (1 week) in the Roadway Inn., 154 West Sixth South Street, Salt Lake City, Utah. All hearings will commence at 9:30 a.m., d.s.t. (or 9:30 a.m., U.S. standard time, if that time is observed).

No. MC 86779 (sub-No. 24) (Notice of Filing of Petition to Renew Explosive Authority), filed May 16, 1973. Petitioner: ILLINOIS CENTRAL GULF RR. CO., a corporation, 135 East 11th Place, Chicago, Ill. 60605. Petitioner's representative: John H. Doeringer (same address as petitioner). Petitioner seeks to renew the explosive authority in its motor *common carrier* certificate No. MC-86779 (sub-No. 24), issued January 31, 1966, and in which the explosive authority expired December 1, 1970, to authorize transportation in interstate or foreign commerce, over regular routes, of *classes A and B explosives,* (1) Between Vicksburg, Miss., and Shreveport, La., serving all intermediate and off-route points which are stations on the rail line of the Illinois Central Railroad Co.: From Vicksburg over U.S. Highway 80 to Shreveport, and return over the same route; and (2) Between Minden, La., and junction U.S. Highway 80 and Louisiana Highway 157, serving all intermediate and off-route points which are stations on the rail line of the Illinois Central Railroad Co.: From Minden over Louisiana Highway 7 to Sibley, La., thence over Louisiana Highway 164 to junction

Louisiana Highway 157, thence over Louisiana Highway 157 to junction U.S. Highway 80, and return over the same route restricted (a) to service which is auxiliary to, or supplemental of, rail service of carrier, (b) against service to any point not a station on its rail line, and (c) against shipments by carrier as a common carrier by motor vehicle between any of the following points, or through or to or from more than one of said points: Shreveport and Monroe, La., and Vicksburg, Miss. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 87720 (sub-No. 83) (notice of filing of petition to add a shipper), filed May 17, 1973. Petitioner: BASS TRANSPORTATION CO., INC., P.O. Box 391, Flemington, N.J. 08822. Petitioner's representative: Bert Collins, 140 Cedar Street, New York, N.Y. 10006. Petitioner presently holds a motor *contract carrier* permit No. MC-87720 (sub-No. 83), issued December 29, 1971, authorizing transportation, in interstate or foreign commerce, over irregular routes, of *plastic pellets or granules and powder*, and *plastic scrap*, (a) between points in Bergen, Essex, Middlesex, and Union Counties, N.J., on the one hand, and, on the other, points in that part of Pennsylvania, on and east of a line beginning at the Pennsylvania-Maryland State line and extending along unnumbered highway (formerly portion U.S. Highway 111) through Shrewsbury and Jacobus, Pa., to junction Interstate Highway 83, thence along Interstate Highway 83 through York, Pa., to junction unnumbered highway (formerly portion U.S. Highway 111), thence along unnumbered highway to junction Pennsylvania Highway 295, thence along Pennsylvania Highway 295 through Zions View and Strinestown, Pa., to junction Interstate Highway 83, thence along Interstate Highway 83 through Lemoyne, Pa., to junction unnumbered highway (formerly portion U.S. Highway 111), thence along unnumbered highway to junction U.S. Highway 15, near Harrisburg, Pa., and thence along U.S. Highway 15 to the Pennsylvania-New York State line, and (b) between points in Bergen, Essex, Hunterdon, Middlesex, and Union Counties, N.J., on the one hand, and, on the other, points in Connecticut, Massachusetts, New York, and Rhode Island, under a continuing contract, or contracts, with Tenneco, Inc., of Piscataway, N.J. By the instant petition, petitioner seeks to add the contracting shipper of Dart Industries, Inc., to the above-described authority. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE.

No. MC 109154 (sub-No. 9), filed April 3, 1973. Applicant: BAYLOR TRUCKING, INC., Rural Route 1, Milan, Ind. 47031. 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: (1) *iron and steel wire*, from Chicago and Waukegan, Ill., Detroit, Mich., and Johnstown, Pa., to Newtown, Ohio; (2) *staples and pneumatic tools*, from Newtown, Ohio, to Chicago and Waukegan, Ill., Detroit, Mich., and Johnstown, Pa.; (3) *iron and steel wire*, from Alton and Joliet, Ill., and Sparrows Point, Md., to points in Anderson Township (Hamilton County), Ohio; (4) *nails, staples, pneumatic tools, and nailers*, from points in Anderson Township (Hamilton County), Ohio, to Elkton, Md., and Edgemont (Delaware County), Scranton, Reading, Lewisburg, Lewistown, Claysburg, Wyoming, Montoursville, and Schuylkill Haven, Pa., with no transportation for compensation on return in (1) through (4) above except as otherwise authorized; and (5) *staples, nails, pneumatic tools, and parts*, from the plantsite of Senco Products, Inc., located at or near Newtown, Ohio, to Elk Grove Village, Ill. Restriction: The requests for authority in (1) through (4) above are restricted to traffic originating at, or destined to, the plantsite of Senco Products, Inc., at or near Newtown, Ohio.

NOTE.—This is a matter directly related to a section 5 proceeding in No. MC-F-11841 published in the FEDERAL REGISTER issue of April 11, 1973.

Transferee seeks to convert transferor's motor contract carrier permit in No. MC-127761 to a certificate of public convenience and necessity in the request for authority in sections (1) through (4) above. The request for authority in (5) above seeks to extend applicant's service to the destination point of Elk Grove Village, Ill. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-11854. Authority sought for purchase by SMITHWAY MOTOR XPRESS, INC., Route 4, Box 404, Fort Dodge, Iowa 50501, of the operating rights of (B) ACME TRANSFER, INC., Route 4, Fort Dodge, Iowa 50501, and (BB) PARK TRANSPORTATION CO., P.O. Box 93, Madison, Ill. 62060, and for acquisition by HAROLD C. SMITH, and WILLIAM G. SMITH, both of Route 3, Fort Dodge, Iowa 50501, RUSSELL J. HILKEN, 1731 North 14th Street, Fort Dodge, Iowa, and ROBERT E. MILLER, 709 Coachlight Lane, Hazelwood, Mo., of control of such rights through the purchase. Applicants' attorney: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101. Operating rights sought to be transferred: (B) *Building materials* (except lumber and bulk commodities), as a *contract carrier* over irregular routes, from the plantsite of Celotex Corp., at or near Fort Dodge, Iowa, to points in Kansas and Missouri (except St. Louis, Mo.), (1) *urethane, urethane products, roofing and roofing materials, insulating materials, composition board, gypsum products* (except commodities in bulk), and (2) *materials* used in the installation of the commodities specified in (1) above (except commodities in bulk), from the plantsite of Celotex Corp., near Fort Dodge, Iowa, to points in Montana, Nebraska, North Dakota, and South Dakota, with restrictions; (BB) *metal culvert pipe, metal roofing*, and *metalware*, from St. Louis, Mo., to points and places in Arkansas, Kentucky, and those in Illinois south of Hancock, McDonough, Fulton, Tazewell, McLean, Ford, and Iroquois Counties; *clay sewer pipe, drain tile, flue lining, wall coping*, and *concrete pipe*, and *fittings* thereof, from St. Louis, Mo., to points and places in that part of Illinois described above; *manufactured iron and steel articles*, from St. Louis, Mo., and points and places in Madison County, Ill., to Shreveport, La., and points and places in Arkansas, Illinois, Indiana, Kansas, Kentucky, Missouri, Nebraska, Iowa, Ohio, Oklahoma, and Tennessee, from Portsmouth and Martins Ferry, Ohio, to St. Louis, Mo. Application has been filed for temporary authority under section 210a(b), under docket No. MC-FC-74330, now reassigned MC-F-11854.

No. MC-F-11857. (Correction) (MICROTON INDUSTRIES, INC.—CONTROL—UFT TRANSPORT CO.), published in the May 9, 1973, issue of the FEDERAL REGISTER on page 12190. Prior notice should be modified to read, *New furniture, new store fixtures and equipment*, and *new kitchen equipment*, as a *common carrier*, over irregular routes, from points in Kentucky and Tennessee (except points in Hamblen County, Tenn.), to points in the United States, including Alaska but excluding Hawaii; *new furniture*, between Camden, Ark., on the one hand, and, on the other, points in Mississippi, Alabama, Florida, Georgia, North Carolina, Tennessee (except points in Hamblen County), Virginia, Kentucky, West Virginia, Indiana, Delaware, Pennsylvania, Ohio, Illinois, New York, Maryland, Wisconsin, Michigan, Connecticut, Massachusetts, Rhode Island, New Jersey, New Hampshire, Vermont, Maine, and the District of Columbia, between points in Texas, Oklahoma, and Arkansas (except from Fort

Smith, Ark., and points in its commercial zone, as defined by the Commission), between Little Rock, Stamps, and Waldron, Ark., on the one hand, and, on the other, points in Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Ohio, Louisiana, Mississippi, North Carolina, Oklahoma, Pennsylvania, Texas, Tennessee (except points in Greene, Hamblen, Knox, and Cocke Counties), Virginia, West Virginia, Delaware, New York, Maryland, Wisconsin, Michigan, Connecticut, Massachusetts, Rhode Island, New Jersey, New Hampshire, Vermont, Maine, and the District of Columbia, between points in Angelina and Nacogdoches Counties, Tex., and points in New Mexico, Kansas (excluding Kansas City and points in its commercial zone as defined by the Commission), Missouri (excluding Kansas City and points in its commercial zone as defined by the Commission), Tennessee (excluding Memphis and points in its commercial zone as defined by the Commission, and points in Hamblen County), Mississippi (excluding Jackson, Natchez, Vicksburg, Gulfport, and points in their commercial zones as defined by the Commission), between points in Saline, Sebastian, and Crawford Counties, Ark., and points in Arizona, California, Colorado, Iowa, Kansas, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, Tennessee (except Cocke, Hamblen, and Knox Counties), Texas, and Wyoming (except between California and Arizona and from Arizona to Texas), between points in Bexar County, Tex. (except San Antonio and points in its commercial zone as defined by the Commission), and Travis County, Tex. (except Austin and points in its commercial zone as defined by the Commission), and points in Arkansas, Colorado, Idaho, Illinois, points in that part of Indiana north of U.S. Highway 50, Kentucky, Michigan, Minnesota, Montana, Nevada, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, and Shelby County, Tenn., with restrictions, between points in Dallas County, Tex., on the one hand, and, on the other, points in Georgia, Iowa, Kansas, Nebraska, New Mexico, and North Carolina, from points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Massachusetts, Maryland, Michigan, New Hampshire, New Jersey, New York, Vermont, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Virginia, Wisconsin, West Virginia, Mississippi, Louisiana, Texas, Arkansas, Oklahoma, and the District of Columbia, to points in Shelby County, Tenn. MICROTON INDUSTRIES, INC., holds no authority from this Commission. However, it is affiliated with (1) CAROLINA EAST FURNITURE TRANSPORT, INC., P.O. Box 906, Irving, Tex. 75060, which is authorized to operate as a *common carrier* in Alabama, Arkansas, Louisiana, Mississippi, Oklahoma, Tennessee, Texas, South Carolina, Massachusetts, Maryland, New Jersey, New York, North Carolina, Pennsylvania, Virginia, Connecticut, Delaware, Rhode Island, Georgia, Florida, and the District of Columbia, and (2) SWIFT HOME-WRAP, INC., a freight forwarder of used household goods and unaccompanied baggage between points in the United States (including Hawaii but excluding Alaska, North Dakota and South Dakota). Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11887. Authority sought for purchase by HILT TRUCK LINE, INC., P.O. Box 988 DTS, Omaha, Nebr. 68101, of the operating rights of WEST SUBURBAN MOTOR EXPRESS, INC., 330 Center Street, Hillside, Ill. 60162, and for acquisition by LEROY HILT, MOLLY HILT, and THOMAS L. HILT, all of P.O. Box 988 DTS, Omaha, Nebr. 68101, of control of such rights through the purchase. Applicants' attorney: James C. Hardman, 127 North Dearborn Street, Chicago, Ill. 60602. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC–56624 (sub-No. 1), covering the transportation of property, as a common carrier in interstate commerce, within the State of Illinois. Vendee is authorized to operate as a *common carrier* in all points in the United States excluding Hawaii. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC–124211 (sub-No. 227), is a directly related matter.

No. MC–F–11888. Authority sought for control by KINGSWAY TRANSPORTS LTD., 123 Rexdale Boulevard, Rexdale, Ontario, Canada, of KINGSWAY DALEWOOD LTD., also of 123 Rexdale Boulevard, Rexdale, Ontario, Canada, and for acquisition by CANADA STEAMSHIP LINES LTD. and POWER CORP. OF CANADA LTD., Paul Desmarais, and Jean Parisien, all of 759 Victoria Square, Montreal, Canada, through the acquisition by KINGSWAY TRANSPORTS LTD. Applicants' attorney: Rex Eames, 900 Guardian Building, Detroit, Mich. 48226. The operating rights sought to be controlled were granted to Kingsway Dalewood Ltd. on February 14, 1973, subject to the condition of filing a section 5(2) application for approval of common control or management: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, as a *common carrier*, over irregular routes, between International Falls, Minn., on the one hand, and, on the other, the international boundary line between the United States and Canada at International Falls, Minn. KINGSWAY TRANSPORTS LTD. is authorized to operate as a common carrier in New York, Ohio, and Michigan. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11889. Authority sought for purchase by NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, Colo. 80223, of a portion of the operating rights of DIRECT MOTOR TRANSPORT, INC., 1205 East 5th Street, Los Angeles, Calif. 90013, and for acquisition by UNITED TRANSPORTATION INVESTMENT CO. and DAVID H. RATNER, both of 310 South Michigan Avenue, Chicago, Ill. 60604, of control of such rights through the purchase. Applicants' attorneys: Axelrod, Goodman, Steiner & Bazelon, 39 South LaSalle Street, Chicago, Ill. 60603, and Donald Murchison, 9454 Wilshire Boulevard, Beverly Hills, Calif. 90212. Operating rights sought to be transferred: *General commodities*, as a common carrier, over irregular routes, in California between points and places in the Los Angeles basin territory (bounded generally on the west at a point the Ventura County-Los Angeles boundary line intersects the Pacific Ocean; east to Yucaipa; south to Temecula and to the Riverside County-San Diego County boundary line; west to the Orange County-San Diego boundary line; southerly to the Pacific Ocean; and northwesterly along the shoreline of the Pacific Ocean to point of beginning), on the one hand, and points and places south thereof on and within 15 miles of U.S. Highways 101 and 101–A to the California-Mexican border, on the other hand. Applicant shall not transport any shipments of:

(1) Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of item No. 10–C of Minimum Rate Tariff No. 4–A; (2) automobiles, trucks and buses, viz.: New and used, finished or unfinished passenger automobiles (including Jeeps), ambulances, hearses, and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis; (3) livestock, viz.: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags, or swine; (4) commodities requiring protection from heat by the use of ice (either water or solidified carbon dioxide) or by mechanical refrigeration; (5) liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers, or a combination of such highway vehicles; (6) commodities when transported in bulk in dump trucks or in hopper-type trucks; (7) commodities when transported in motor vehicles equipped for mechanical mixing in transit; (8) logs; (9) commodities requiring special equipment and handling because of unusual size, weight, or shape; (10) articles of extraordinary value as set forth in Rule No. 3 of Western Classification No. 77, J. P. Hackler, tariff publishing officer, on the issue date thereof; and (11) trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper. Vendee is authorized to operate as a common carrier in Illinois, Indiana, Iowa, Kansas, Colorado, Oklahoma, New Mexico, Arizona, Wyoming, Utah, Nebraska, Missouri, Texas, Nevada, Louisiana, Virginia, Maryland, Arkansas, Florida, New York, Tennessee, Kentucky, Ohio, and

Michigan. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11890. Authority sought for purchase by HOWARD SOBER, INC., 500 West Armory Drive, South Holland, Ill. 60473, of a portion of the operating rights and property of INSURED TRANSPORTERS, INC., 1944 Williams Street, San Leandro, Calif. 94577, and for acquisition by NATIONAL CITY LINES, INC., P.O. Box 10127, Lubbock, Tex. 79408, of control of such rights and property through the purchase. Applicant's attorneys: Robert E. Joyner, 2008 Clark Tower, Memphis, Tenn. 38137, John R. Sims, Jr., 1707 H Street NW., Washington, D.C. 20006, and John G. Lyons, 1418 Mills Tower, San Francisco, Calif. 94104. Operating rights sought to be transferred: *Trucks, tractors, truck chassis, truck trailers and semi-trailers, or combinations of such vehicles,* with or without bodies, in driveaway service, as a *common carrier* over irregular routes, between San Francisco, Oakland, and Los Angeles, Calif., on the one hand, and, on the other, points in Arizona, Utah, and Washington, between San Francisco and Oakland, Calif., on the one hand, and, on the other, Reno, Nev., and points in California and Oregon; *new trucks, tractors, truck-trailers, buses and chassis,* and parts thereof when moving with these commodities, in initial movements, in driveaway service, from places of manufacture or assembly at San Francisco, Calif., or at points within 20 miles thereof, to points in Arizona, Colorado, Idaho, Montana, New Mexico, Nevada, Oklahoma, Oregon, Texas, Utah, Washington, and Wyoming; *new automobiles and trucks,* in driveaway service, from San Francisco, Calif., to San Jose, Fresno, Salinas, and Monterey, Calif.; *new trucks,* in driveaway service, from San Francisco, Calif., to certain specified points in California, and Reno, Nev.; *trucks, tractors, chassis, and trailers* other than those designed to be drawn by passenger automobiles, in initial movements, in driveaway service, from Emeryville, Calif., 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, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, Wisconsin, and the District of Columbia; *trucks, truck tractors, and truck chassis,* in initial movements, in truckaway service, from Portland, Oreg., to points in Arizona, Arkansas, California, Colorado, Illinois, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, Wisconsin, and Wyoming, from Seattle and Renton, Wash., to points in the United States (except points in Montana, Washington, that part of Idaho in and north of Idaho County, Idaho, and that part of Oregon, in and north of Lane, Deschutes, Crook, Trant, and Baker Counties, Oreg.); *trucks* in initial movements, in driveaway service, from Portland, Oreg., to points in the United States east of a line beginning at the Gulf of Mexico and extending along the Mississippi River to the southern boundary of Minnesota and thence along the eastern boundary of Minnesota to the United States-Canada boundary line, from Seattle and Renton, Wash., to points in the United States, except points in Hawaii, Montana, Washington, and that part of Idaho in and north of Idaho County, Idaho, and that part of Oregon in and north of Lane, Deschutes, Crook, Grant, and Baker Counties, Oreg.; *trucks,* in initial movements, in truckaway service, from Salinas, Calif., to points in the United States; *trucks,* in initial and secondary movements, in driveaway service, from Salinas, Calif., to points in the United States (including Alaska but excepting Hawaii), with restriction; *trucks,* in initial movements, in driveaway and truckaway service, from Pomona, Calif., to points in the United States, including Alaska, but except Hawaii; *trucks, and accessories and parts thereof* when moving with the above-described commodity, in initial movements, in driveaway service, from the plantsite of the Freightliner Corp. at Indianapolis, Ind., to points in the United States, including Alaska, but excluding Hawaii; *motor vehicles* (except passenger automobiles) and *chassis,* in driveaway service, and *bodies, cabs, and parts of, and accessories for,* such vehicles when moving therewith, from ports of entry on the United States-Canada boundary line in Washington, Idaho, and Montana, to points in the United States (except Alaska and Hawaii), from ports of entry on the United States-Canada boundary line in Alaska, to points in Alaska; *motor vehicles* (except automobiles), *and chassis,* in initial movements, in driveaway service, and *bodies, cabs, and parts of, and accessories for,* such motor vehicles when moving in connection therewith, from ports of entry on the United States-Canada boundary line located in Michigan and New York, to points in the United States (except Alaska and Hawaii), with restrictions; *trucks,* in initial movements, in driveaway and truckaway service, and *bodies, cabs, and parts of and accessories for such vehicles,* when moving in connection therewith, from the plantsite of the International Harvester Co., in San Leandro, Calif., to points in the United States (except Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, and Wyoming); *trucks, truck tractors, and truck chassis,* in initial movements, in driveaway and truckaway service, and *bodies, cabs, and parts of and accessories* for such vehicles, from Nashville, Tenn., to points in the United States (including Alaska, but excluding Hawaii); *motor vehicles* (except passenger automobiles), and *chassis,* in initial movements, in driveaway service, and *bodies, cabs, and parts of, and accessories for,* such vehicles, from Portland, Oreg., to points in the United States (including Alaska but excepting Hawaii); *trucks, truck chassis, and truck tractors, and parts and accessories* of the described vehicles which are moving at the same time and with the vehicle of which they are a part and on which they are to be installed, in initial movements, by driveaway method, from Portland, Oreg., to points in the United States west of a line beginning at the Gulf of Mexico and extending along the Mississippi River to the point of intersection of the eastern and southern boundaries of Minnesota, thence along the eastern boundary of Minnesota to the United States-Canada boundary line; *motor vehicles* (except automobiles), and chassis, in initial movements, in driveaway service, and *bodies, cabs, and parts of and accessories for* such vehicles when moving in connection therewith, from the ports of entry on the United States-Canada boundary line located in Washington, Idaho, Montana, North Dakota, Minnesota, Michigan, New York, Vermont, and Maine, to points in the United States (except Alaska and Hawaii), from the ports of entry on the United States-Canada boundary line located in Alaska, to points in Alaska, with restrictions; *self-propelled aircraft cargo lifts and conveyor vehicles* (except self-propelled articles weighing 15,000 pounds or more and commodities the transportation of which, because of size or weight, require special equipment), from Salinas, Calif., to points in the United States (except Alaska and Hawaii); *motor vehicles* (except passenger automobiles), and *chassis,* in initial movements, in driveaway service, and *bodies, cabs, and parts of, and accessories for,* such vehicles, when moving in connection therewith, from Pomona, Calif., to points in the United States (except Alaska and Hawaii); *motor homes and motor showrooms,* in initial movements, in truckaway and driveaway service, from points in Grayson County, Tex., and Tulare County, Calif., to points in Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oklahoma, Oregon, Texas, Utah, Washington, and Wyoming; *motor vehicles* (except trailers and farm tractors, commodities requiring special equipment, motor homes in driveaway service, and self-propelled articles, each weighing 15,000 pounds or more, in truckaway service), in initial movements, in driveaway and truckaway service, from the facilities of Mack Western at Hayward, Calif., to points in the United States (including Alaska but excluding Hawaii), with restriction. Vendee is authorized to operate as a *common carrier* in all of the States in the United States (except Alaska and Hawaii). Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11891. Authority sought for purchase by GRAY MOVING & STORAGE, INC., 1290 South Peark Street, Denver, Colo. 80210, of a portion of the operating rights of THOMAS C. WARNER, doing business as COLE TRANSFER & STORAGE CO., 1478

Marilyn Drive, Ogden, Utah 84403, and for acquisition by DAVID R. GRAY and VAYANN D. GRAY, both of Route 2, Box 222E, Evergreen, Colo. 80439, of control of such rights through the purchase. Applicants' attorney: Truman A. Stockton, Jr., the 1650 Grant Street Building, Denver, Colo. 80203. Operating rights sought to be transferred: *Household goods*, as defined by the Commission, as a *common carrier* over irregular routes, between points in Weber and Box Elder Counties, Utah, on the one hand, and, on the other, points in California, Colorado, Wyoming, Montana, and Utah, between points in Utah, excepting those in Cache County, on the one hand, and, on the other, points in Nevada, and those in that part of Idaho east of the western boundary of Lemhi County and south of the southern boundary of Idaho County. Vendee is authorized to operate as a *common carrier* in Missouri, Colorado, Nebraska, Kansas, Iowa, Oklahoma, South Dakota, Wyoming, Texas, Arkansas, Illinois, Indiana, Michigan, Kentucky, Ohio, Tennessee, Wisconsin, Pennsylvania, New York, New Jersey, Connecticut, Virginia, West Virginia, Maryland, Delaware, New Mexico, Utah, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11892. Authority sought for purchase by S.T.L. TRANSPORT, INC., 1000 Jefferson Road, Rochester, N.Y. 14623, of the operating rights of FRANK L. WESTON, 835 Elmwood Terrace, Rochester, N.Y. 14620, and for acquisition by ROGER L. JOHNSON, also of 1000 Jefferson Road, Rochester, N.Y. 14623, of control of such rights through the purchase. Raymond A. Richards, 44 North Avenue, Webster, N.Y. 14580. Operating rights sought to be transferred: *Bananas*, as a *common carrier* over irregular routes, from Baltimore, Md., Weehawken, N.J., New York, N.Y., and Norfolk, Va., to Rochester, N.Y.; *fresh fruits, vegetables, and berries*, in mixed shipments with bananas, from Baltimore, Md., New York, N.Y., Norfolk, Va., and Weehawken, N.J., to Rochester, N.Y. Vendee is authorized to operate as a *common carrier* in New York, Connecticut, Massachusetts, Maine, New Hampshire, Vermont, and Rhode Island. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11893. Authority sought for purchase by OVERNITE TRANSPORTATION CO., 1100 Commerce Road, Richmond, Va. 23224, of the operating rights of SPADE CONTINENTAL EXPRESS, INC., Flint and Denman Streets, Cincinnati Ohio 45214, and for acquisition by J. H. COCHRANE, also of Richmond, Va. 23224, of control of such rights through the purchase. Applicants' attorney: Eugene T. Liipfert, suite 1100, 1660 L Street NW., Washington, D.C. 20036. Operating rights sought to be transferred: *General commodities*, with exceptions, as a *common carrier* over regular routes, between Cincinnati, Ohio, and Corinth, Ky., serving various intermediate and off-route points; *general commodities*, with exceptions over irregular routes, between points in Ohio within the Cincinnati, Ohio, commercial zone as defined by the Commission, on the one hand, and, on the other, points in Ohio. Vendee is authorized to operate as a *common carrier* in Albama, Florida, Georgia, North Carolina, Kentucky, Ohio, South Carolina, Tennessee, Virginia, and West Virginia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11894. Authority sought for purchase by R. M. SULLIVAN TRANSPORTATION, INC., 649 Cottage Street, Springfield, Mass. 01104, of the operating rights and property of BERKSHIRE EXPRESS, INC., Downing Industrial Parkway, Pittsfield, Mass. 01201, and for acquisition by ROBERT M. SULLIVAN, 14 Old Coach Road, Wilbraham, Mass. 01095, of control of such rights and property through the purchase. Applicants' attorney: David M. Marshall, 135 State Street, suite 200, Springfield, Mass. 01103. Operating rights sought to be transferred: *General commodities*, excepting among others, classes A and B explosives, household goods, and commodities in bulk, as a *common carrier*, over regular routes, between Hinsdale, Mass., and Canaan, Conn., serving all intermediate points, and the off-route points of Richmond and South Egremont, Mass.; between Great Barrington, Mass., and Williamstown, Mass., serving all intermediate points, and off-route points in Berkshire County, Mass.; and between Troy, N.Y., and Pittsfield, Mass., serving the intermediate and off-route points to Watervliet, Green Island, Menands, Rensselaer, Nassau, Brainard, New Lebanon, East Nassau, and Albany, N.Y.; *General commodities*, excepting among others, classes A and B explosives, household goods, and commodities in bulk, over irregular routes, between Pittsfield, Mass., on the one hand, and, on the other, points in that part of New York within 25 miles of Pittsfield; *such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, *equipment, materials, and supplies* used in the conduct of such business, from North Adams and Pittsfield, Mass., to Bennington, North Bennington, and Manchester Center, Vt., and Hoosick Falls, N.Y., and points in Berkshire County, Mass.; *packinghouse products*, as defined by the Commission, from Pittsfield, Mass., to points in Berkshire County, Mass.; and *fresh meats, packinghouse products, and such other commodities* as are dealt in or distributed by packinghouses, also *advertising matter* used in promoting the sale of such commodities, from Albany, N.Y., to Chatham, East Chatham, Ghent, and Canaan, N.Y., and points in Berkshire County, Mass. Vendee is authorized to operate as a *common carrier* in Massachusetts, New Hampshire, Rhode Island, and Connecticut. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11895. Authority sought for control by ARROW CARRIER CORP., Route 17, 160 U.S., Rochelle Park, N.J. 07662, of GILES EXPRESS, INC., Harris and Union Avenue, Middlesex, N.J. 08846, and for acquisition by PAUL S. DOHERTY, PAUL S. DOHERTY, JR., and SHIRLEY A. DOHERTY, all of Rochelle Park, N.J. 07662, of control of GILES EXPRESS, INC., through the acquisition by ARROW CARRIER CORP. Applicants' attorneys: A. David Millner, 744 Broad Street, Newark, N.J. 07102, and Maxwell Howell, 1120 Investment Building, 1511 K Street NW., Washington, D.C. 20005. Operating rights sought to be controlled: *General commodities*, with exceptions, as a common carrier over irregular routes, between points in Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, and Union Counties, N.J., on the one hand, and, on the other, Newark, N.J., New York, N.Y., and points in Nassau and Suffolk Counties, N.Y., between Finderne and Manville, N.J., on the one hand, and, on the other, Bound Brook, N.J.; *cut flowers, potted plants*, and *florist stock*, between points in Middlesex and Somerset Counties, N.J., on the one hand, and, on the other, Allentown, Bethlehem, Doylestown, Easton, Norristown, Pottstown, and Reading, Pa.; *plastic gloves*, from Somerville and Bound Brook, N.J., to Stamford, Conn. Arrow Carrier Corp. is authorized to operate as a *common carrier* in Delaware, New Jersey, New York, Pennsylvania, and Vermont. Application has been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.73–11307 Filed 6–5–73;8:45 am]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

JUNE 1, 1973.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by special rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Alaska docket No. 73–118–MP/O, filed April 27, 1973. Applicant: EMIL P. HUDEC, doing business as AIRPORT LIMOUSINE SERVICE, Box 271, Homer.

Alaska 99603. Applicant's representative: A. Robert Hahn, Jr., 542 West Second Avenue, Anchorage, Alaska 99501. Certificate of public convenience and necessity sought to operate a passenger service as follows: Transportation of *passengers and their baggage, and express*, between the Homer Airport and Homer Dock, on the one hand, and, on the other, motels, hotels, and other places of lodging within a 25-mile radius of the city of Homer, applicant also seeks to transport passengers, their baggage, and express having an origin or destination point outside the State of Alaska in interstate and/or foreign commerce. Intrastate, interstate, and foreign commerce authority sought.

HEARING: Date, time, and place not shown. Requests for procedural information should be addressed to the Alaska Transportation Commission, 750 MacKay Building, 338 Denali Street, Anchorage, Alaska 99501, and should not be directed to the Interstate Commerce Commission.

California docket No. 54059, filed May 24, 1973. Applicant: DUBLIN FAST FREIGHT, INC., Dublin Court (P.O. Box 2255), Dublin, Calif. 94566. Applicant's representative: Daniel W. Baker, 100 Pine Street, San Francisco, Calif. 94111. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities*, except the following: (a) Used household goods and personal effects not packed in accordance with the crated property requirements; (b) livestock; (c) commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment; (d) liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles; (e) commodities when transported in bulk in dump trucks or in hopper-type trucks; (f) commodities when transported in motor vehicles equipped for mechanical mixing in transit; (g) logs; (h) fresh fruits and vegetables; (i) articles of extraordinary value; and (j) automobiles, trucks and buses, (1) between all points and places in the San Francisco territory, as described hereafter, and all points within 10 miles of any point therein; and (2) between all points on or within 10 miles of the points on the following routes: (a) Interstate Highway 580, between Hayward and Livermore, inclusive; (b) Interstate Highway 680, between Mission San Jose and Concord, inclusive; and (c) State Highway 24, between Oakland and Walnut Creek, inclusive. In performing the service herein authorized, applicant may make use of any and all streets, roads, highways, and bridges necessary or convenient for the performance of said service. San Francisco territory includes all the city of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County boundary line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway 101 to its intersection with Southern Pacific Co. right of way at Arastradero Road; southeasterly along the Southern Pacific Co. right of way to Pollard Road, including industries served by the Southern Pacific Co. spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to West Parr Avenue; easterly along West Parr Avenue to Capri Drive; southerly along Capri Drive to East Parr Avenue; easterly along East Parr Avenue to the Southern Pacific Co. right of way; southerly along the Southern Pacific Co. right of way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U.S. Highway 101; northwesterly along U.S. Highway 101 to Tully Road; northeasterly along Tulley Road to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbord Drive, and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway 40 (San Pablo Avenue); northerly along U.S. Highway 40 to and including the city of Richmond; southwesterly along the highway extending from the city of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning. Intrastate, interstate, and foreign commerce authority sought.

HEARING: Date, time, and place not shown. Requests for procedural information should be addressed to the California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T-863 filed May 21, 1973. Applicant: SHAY'S SERVICE, INC., North Main Street, Dansville, N.Y. 14437. Applicant's representative: Herbert M. Canter, 315 Seitz Building, 201 East Jefferson Street, Syracuse, N.Y. 13202. By this application applicant seeks to amend paragraph "E" of its present certificate of registration to change the "base" from the village of Dansville (Livingston County) to the county of Livingston, but otherwise retain all restrictions contained therein, so that it will read as follows: *General commodities*, as defined in § 800.1 of title 16 of the "Official Compilation of Codes, Rules, and Regulations of the State of New York," except as authorized in paragraphs A, B, and D herein above: Between all points in Livingston County on the one hand, and, on the other, all points in the following counties: Allegany, Cattaraugus, Chautauqua, Chemung, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Schuyler, Steuben, Wayne, Wyoming, Yates. Restrictions: The authority contained herein is limited as follows: 1. To all traffic having prior or subsequent movement at points in Livingston County by interlining common, contract or private carriage. 2. The authority granted herein shall not be combined with any other operating authority now held by or hereinafter issued to the applicant. The provisions of § 831.1 of title 16 of the "Official Compilation of Codes, Rules and Regulations of the State of New York," shall not be deemed applicable to the authority granted herein. Intrastate, interstate, and foreign commerce authority sought.

Hearing: Date, time, and place not shown. Requests for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Avenue, State Campus, Albany, N.Y. 12226, and should *not* be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.73-11306 Filed 6-5-73;8:45 am]

[ICC Order No. 99; Revised SO No. 994]

BURLINGTON NORTHERN INC.

Rerouting or Diversion of Traffic

In the opinion of Lewis R. Teeple, agent, the Burlington Northern Inc., is unable to transport traffic over its line between Albia, Iowa, and Kirksville, Mo., because of flooding and track damages.

It is ordered, That:

(a) The Burlington Northern Inc., being unable to transport traffic over its line between Albia, Iowa, and Kirksville, Mo., because of flooding and track damages, that carrier is hereby authorized to reroute or divert such traffic via any available route to expedite the movement. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.*—The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.*—Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the division of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.*—This order shall become effective at 2 p.m., May 25, 1973.

(g) *Expiration date.*—This order shall expire at 11:59 p.m., June 9, 1973, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 25, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] LEWIS R. TEEPLE,
Agent.

[FR Doc.73-11300 Filed 6-5-73;8:45 am]

[Notice 13]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JUNE 1, 1973.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's "Revised Deviation Rules—Motor Carriers of Passengers, 1969" (49 CFR 1042.2(c)(9) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's "Revised Deviation Rules—Motor Carriers of Property, 1969," will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC-1515 (deviation No. 654), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, Ohio 44113, filed May 16, 1973. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *passengers and their baggage,* and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From Benton Harbor, Mich., over Business Route Interstate Highway 94 to junction Interstate Highway 196, thence over Interstate Highway 196 to Holland, Mich., with the following access roads: (1) From South Haven, Mich., Michigan Highway 140 to junction Interstate Highway 196, (2) from South Haven, Mich., over unnumbered highway (formerly U.S. Highway 31) to junction access road approximately 2 miles north of South Haven, Mich., thence over unnumbered access road to junction Interstate Highway 196, and (3) from junction Interstate Highway 196 and unnumbered highway (formerly U.S. Highway 31), approximately 2 miles south of Douglas, Mich., over unnumbered highway via Douglas and Saugatuck to junction Interstate Highway 196, approximately 2 miles north of Saugatuck, Mich., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Benton Harbor, Mich., over U.S. Highway 33 to junction unnumbered highway (formerly U.S. Highway 31), thence over unnumbered highway via South Haven, Glenn, and Douglas, Mich., to junction Interstate Highway 196, approximately 5 miles south of Holland, Mich., thence over Interstate Highway 196 to Holland, Mich., and return over the same route.

No. MC-1515 (deviation No. 655), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, Ohio 44113, filed May 21, 1973. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *passengers and their baggage,* and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From King of Prussia, Pa., over Interstate Highway 76 to junction with the Pennsylvania Turnpike, thence over the Pennsylvania Turnpike to junction the Northeast Extension of the Pennsylvania Turnpike, thence over the Northeast Extension of the Pennsylvania Turnpike to the Interchange of the Northeast Extension of the Pennsylvania Turnpike, Interstate Highway 80 and unnumbered highway providing access and egress between Interstate Highway 80 and the Northeast Extension of the Pennsylvania Turnpike, thence over unnumbered access highway to junction Interstate Highway 80, thence over Interstate Highway 80 to interchange with the Ohio Turnpike at Exit 15, west of Youngstown, Ohio, with the following access route: From Youngstown, Ohio, over Ohio Highway 193 to junction Interstate Highway 80, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From King of Prussia, Pa., over Interstate Highway 76 to junction the Pennsylvania Turnpike, at Interchange No. 24, thence over the the Pennsylvania Turnpike to junction the Ohio Turnpike at the Ohio-Pennsylvania State line, thence over the Ohio Turnpike to Exit No. 15 (junction Interstate Highways 80 and 76) west of Youngstown, Ohio, and return over the same route.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.73-11303 Filed 6-5-73;8:45 am]

[Notice 20]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JUNE 1, 1973.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's "Revised Deviation Rules—Motor Carriers of Property, 1969" (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's "Revised Deviation Rules—Motor Carriers of Property, 1969," will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-63562 (deviation No. 5), BN TRANSPORT INC., 796 South Pearl Street, Galesburg, Ill. 61401, filed May 16, 1973. Carrier's representative: Larry J. Schwarz (same address as applicant). Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From St. Joseph, Mo., over city streets to Interstate Highway 29, thence over Interstate Highway 29 to Council Bluffs, Iowa (using U.S. Highways 59 and 136 where portions of Interstate Highway 29 are not completed), and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Chicago, Ill., over U.S. Highway 34 to junction Illinois Highway 65, thence over Illinois Highway 65 to Aurora, Ill., thence over Illinois Highway 31 to junction U.S. Highway 34 (also from junction U.S. Highway 34 and Illinois Highway 65 over U.S. Highway 34 to junction Illinois Highway 31), thence over U.S. Highway 34 to Glenwood, Iowa, thence over U.S. Highway 275 to junction Iowa Highway 375, thence over Iowa Highway 375 to Council Bluffs, Iowa, thence over U.S. Highway 6 to Omaha, Nebr., (2) from Omaha, Nebr., over U.S. Highway 6 to junction unnumbered highway about 4 miles southwest of Atlanta, Nebr., thence over unnumbered highway via Mascot to Oxford, Nebr., thence over U.S. Highway 136 (formerly Nebraska Highway 3) via Edison, Nebr., to junction U.S. Highway 6, thence over U.S. Highway 6 to McCook, Nebr., (3) from Kansas City, Mo., over U.S. Highway 69 to Des Moines, Iowa, (4) from Kansas City, Mo., over U.S. Highway 71 to junction City U.S. Highway 71, thence over City U.S. Highway 71 to St. Joseph, Mo., thence over U.S. Highway 36 to Jacksonville, Ill., (5) from Lincoln, Nebr., over U.S. Highway 77 to Beatrice, Nebr., thence over U.S. Highway 136 (formerly Nebraska Highway 3) via Alma, Nebr., to Orleans, Nebr., thence over Nebraska Highway 89 to junction U.S. Highway 83, thence over U.S. Highway 83 to Oberlin, Kans., thence over U.S. Highway 36 via Atwood, Kans., to St. Francis, Kans., (6) from Glenwood, Iowa, over U.S. Highway 34 to Lincoln, Nebr., (7) from Omaha, Nebr., over U.S. Highway 73 to junction U.S. Highway 34, (8) from Beatrice, Nebr., over U.S. Highway 77 to junction U.S. Highway 36, thence over U.S. Highway 36 to junction U.S. Highway 73 (near Hiawatha), (9) from St. Joseph, Mo., over U.S. Highway 36 to junction U.S. Highway 73 (near Hiawatha), (10) from Weston, Mo., over County Highway JJ to junction Missouri Highway 45, thence over Missouri Highway 45 to junction U.S. Highway 71, thence over U.S. Highway 71 to Kansas City, Mo., thence over city streets to Kansas City, Kans., (11) from Weston, Mo., over County Highway H to junction Missouri Highway 45, thence over Missouri Highway 45 to junction U.S. Highway 59, thence over U.S. Highway 59 to Atchison, Kans., (12) from St. Joseph, Mo., over U.S. Highway 59 to junction Missouri Highway 116, thence over Missouri Highway 116 to Rushville, Mo., thence return over Missouri Highway 59 to junction Missouri Highway 45, thence over Missouri Highway 45 to junction unnumbered highway, thence over unnumbered highway to Armour, Mo., and (13) from Atchison, Kans., over U.S. Highway 73 to junction U.S. Highway 34, and return over the same routes.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.73-11302 Filed 6-5-73;8:45 am]

[No. FF-C-51]

FREIGHT FORWARDERS OF HOUSEHOLD GOODS

Notice of Filing Petition

Petition: MOVERS' & WAREHOUSEMEN'S ASSOCIATION OF AMERICA, INC., suite 522, Munsey Building, Washington, D.C. Petitioner's representative: Herbert Burstein, 1 World Trade Center, New York, N.Y. 10048. By petition filed May 23, 1973, the above-named petitioner requests that the Interstate Commerce Commission institute a rulemaking proceeding to determine whether various provisions of the rules and regulations of the Commission, governing the transportation of household goods in interstate or foreign commerce by motor common carriers, should be adopted under section 402 of the Interstate Commerce Act and made applicable to regulated surface freight forwarder of household goods. Petitioner contends that a substantial volume of household goods traffic moves in regulated forwarder service; that regulated freight forwarders complete with regulated motor common carriers for available household goods traffic; and that while the forwarder has the same responsibility for a shipment of household goods as does the motor carrier, the forwarder is not required (1) to handle shipments with reasonable dispatch and be liable for failure to pickup or deliver on dates specified, (2) to make estimates, (3) to furnish shipper any document comparable to form BOP-103 or an order for service, (4) to notify shipper of delays in pickup or delivery, (5) to store household goods at its cost when a shipment is delivered earlier than specified, and (6) to weigh a shipment on a certificated scale with the shipper present.

Motor common carriers of household goods are required to provide the above. In addition, petitioner contends that forwarders may insist on full payment even if the final charges exceed those in an estimate, if one has been provided, and may sell insurance to the public. Petitioner also argues that forwarders should be responsible for the acts and omissions of its agents to the same extent as motor carriers of household goods. The Association believes that forwarders of household goods operate with a competitive advantage over their motor carrier counterparts because they are not required to comply with the same regulations as the motor carriers.

No oral hearing is contemplated at this time, but any person (including petitioner) wishing to make representations in favor of, or against, the relief sought in the petition may do so by the submission of written data, views, or arguments. An original and 15 copies of such data, views, or arguments shall be filed with the Commission on or before August 13, 1973. A copy of each representation should be served upon petitioners' representative. Written material or suggestions submitted will be available for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution, Washington, D.C., during regular business hours. Notice to the general public of the matter herein under consideration will be given by depositing a copy of this notice in the Office of the Secretary of Commission for public inspection and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.73-11301 Filed 6-5-73;8:45 am]

CUMULATIVE LISTS OF PARTS AFFECTED—JUNE

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 June.

FEDERAL REGISTER PAGES AND DATES—JUNE

Pages	*Date*	*Pages*	*Date*
14361–14659	June 1	14733–14805	June 5
14661–14732	4	14807–14906	6