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HIGHLIGHTS OF THIS ISSUE

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Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Regulation M]

PART 213—FOREIGN ACTIVITIES OF NATIONAL BANKS

Reserves Against Eurodollar Borrowings

By order published in the FEDERAL REGISTER on May 25, 1973 (38 FR 101), the Board amended § 204.5(c) of regulation D and § 213.7 of regulation M (effective June 21, 1973) pursuant to its authority under sections 19 and 25 of the Federal Reserve Act (12 U.S.C. 461 and 601). The purpose of such amendments was to establish reserve requirements on member banks' Eurodollar borrowings that provide roughly parallel treatment as compared with large certificates of deposit and bank-related commercial paper and to simplify, and improve the effectiveness of, such reserve requirements by gradually eliminating reserve-free bases which applied only to a small number of member banks.

As proposed in its notice of proposed rulemaking published in the FEDERAL REGISTER on September 20, 1972 (37 FR 19386), the Board's amendment of § 213.7(b) of regulation M, relating to reserve requirements computed on the basis of credit extended by member banks' foreign branches to U.S. residents, eliminated a provision that excluded from the computation of such reserve requirements credit extended by a foreign branch which at no time during the computation period had credit outstanding to U.S. residents exceeding $5 million. However, after additional consideration of the comments received with regard to its earlier proposal, the Board has determined to further amend § 213.7(b) to exclude from the computation of reserve requirements thereunder credit extended (1) in the aggregate amount of $100,000 or less to any U.S. resident, or (2) by a foreign branch which at no time during the computation period had credit outstanding to U.S. residents exceeding $1 million.

The present amendment is made pursuant to the Board's authority under section 25 of the Federal Reserve Act. The purpose of this amendment is to minimize the administrative burden on member banks in complying with those reserve requirements relating to extensions of credit by their foreign branches to U.S. residents. This amendment, which will be effective on the same date as the earlier amendments published in the FEDERAL REGISTER on May 25, 1973, will remove from the computation of reserve requirements under § 217.3(b) of regulation M credits extended that are of such small amounts as are unlikely to be significant to the effectiveness of the Board's regulations as a moderate restraint on overall increases in member banks' Eurodollar borrowings.

There was no notice and public participation with respect to that portion of the amendment relating to credit extended to any U.S. resident in the aggregate amount of $100,000 or less. The Board found that such procedures were unnecessary and would serve no useful purpose since the rule relieves a restriction without adversely affecting any private interests; furthermore, such procedures would result in delay that would be contrary to the public interest.

Effective June 21, 1973, the Board has amended the proviso in § 213.7(b) of regulation M to read as follows:

§ 213.7 Reserves against foreign branch deposits.

* * * * *

(b) *Credit extended to U.S. residents.*— * * *

Provided, That this paragraph does not apply to credit extended (1) in the aggregate amount of $100,000 or less to any U.S. resident, (2) by a foreign branch which at no time during the computation period had credit outstanding to U.S. residents exceeding $1 million, (3) to enable the borrower to comply with the requirements of the Office of Foreign Direct Investments, Department of Commerce,* or (4) under binding commitments entered into before May 17, 1973.

By order of the Board of Governors, May 31, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-11326 Filed 6-6-73;8:45 am]

[Regulations K and M]

PART 211—CORPORATIONS ENGAGED IN FOREIGN BANKING AND FINANCING UNDER THE FEDERAL RESERVE ACT

PART 213—FOREIGN ACTIVITIES OF NATIONAL BANKS

Availability of Information To Facilitate Supervision of Foreign Operations of Member Banks

Parts 211 and 213 of Title 12 are amended by adding the following new sections:

§ 211.110 Statement of policy on availability of information to facilitate supervision of foreign operations of member banks.

For text of interpretation, see § 213.104 of this chapter.

§ 213.104 Statement of policy on availability of information to facilitate supervision of foreign operations of member banks.

For the guidance of member banks having foreign operations, the Board publishes the following statement of policy regarding availability of information pertaining to member banks' foreign branches and subsidiaries to enable proper supervision of those operations:

(a) The Board of Governors of the Federal Reserve System, as a central bank, is properly concerned with the preservation and promotion of a sound banking system in the United States. The Board of Governors and other Federal banking supervisory authorities have been given specific statutory responsibilities to assure that banking institutions are operated in a safe and prudent manner affording protection to depositors and providing adequate and efficient banking services to the public on a continuing basis. These responsibilities and concerns are shared by central banks and bank supervisors the world over.

(b) Under sections 25 and 25(a) of the Federal Reserve Act, the Board has particular responsibilities to supervise the international operations of member banks in the public interest. In carrying out these responsibilities, the Board has sought to assure that the international operations of member banks would not only foster the foreign commerce of the United States but that they would also be conducted so as not to encroach on the maintenance of a sound and effective banking structure in the United States. In keeping with the latter consideration, the Board believes it incumbent upon member banks to supervise and administer their foreign branches and subsidiaries in such a manner as to assure that their operations are conducted at all times in accordance with high standards of banking and financial prudence.

(c) Proper administration and supervision of foreign branches and subsidiaries require the use of effective systems of records, controls, and reports that will keep the bank's management informed of the activities and condition of its branches and subsidiaries. At a minimum, such systems should provide the following:

(1) *Risk assets.*—To permit assessment of exposure to loss, information furnished or available to head office

* The branch may in good faith rely on the borrower's certification that the funds will be so used.

should be sufficient to permit periodic and systematic appraisals of the quality of loans and other extensions of credit. Coverage should extend to a substantial proportion of the risk assets in the branch or subsidiary, and include the status of all large credit lines and of credits to customers also borrowing from other offices of the bank. Information on credit extensions should include (i) a recent financial statement of the borrower and current information on his financial condition; (ii) credit terms, conditions, and collateral; (iii) data on any guarantors; (iv) payment history; and (v) status of corrective measures employed.

(2) *Liquidity.*—To enable assessment of local management's ability to meet its obligations from available resources, reports should identify the general sources and character of the deposits borrowings, etc., employed in the branch or subsidiary with special reference to their terms and volatility. Information should be available on sources of liquidity—cash, balances with banks, marketable securities, and repayment flows—such as will reveal their accessibility in time and any risk elements involved.

(3) *Contingencies.*—Data on the volume and nature of contingent items such as loan commitments and guaranties or their equivalents that permit analysis of potential risk exposure and liquidity requirements.

(4) *Controls.*—Reports on the internal and external audits of the branch or subsidiary in sufficient detail to permit determination of conformance to auditing guidelines. Such reports should cover (i) verification and identification of entries on financial statements; (ii) income and expense accounts, including descriptions of significant chargeoffs and recoveries; (iii) operation of dual-control procedures and other internal controls; (iv) conformance to head office guidelines on loans, deposits, foreign exchange activities, proper accounting procedures, and discretionary authority of local management; (v) compliance with local laws and regulations; and (vi) compliance with applicable U.S. laws and regulations.

By order of the Board of Governors of the Federal Reserve System, May 31, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-11325 Filed 6-6-73;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket 12172, Amendment 39-1660]

PART 39—AIRWORTHINESS DIRECTIVES

Handley Page (Jetstream Aircraft Ltd.) Model HP-137 Mk I Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring replacement of the 30-amp fuse, F10, in the d.c. power control box with a resettable circuit breaker having a 25-amp rating on Handley Page (Jetstream Aircraft Ltd.) model HP-137 Mk 1 airplanes was published in the FEDERAL REGISTER on September 1, 1972, at 37 FR 17856.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No comments were received.

(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).)

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

HANDLEY PAGE (JETSTREAM AIRCRAFT LTD.): Applies to model HP-137 Mk 1 airplanes.

Compliance is required within the next 50 hours' time in service after the effective date of this AD unless already accomplished.

To prevent the possible unnecessary interruption of current flow to the battery bus and nonessential bus, replace the 30-amp fuse, F10 in the d.c. power control box with a 25 amp Klixon circuit breaker, P/N D6761-1-25, in accordance with Jetstream Aircraft Limited Modification No. 5006, parts 1 and 2, dated September 1971, or an FAA-approved equivalent.

This amendment becomes effective July 6, 1973.

Issued in Washington, D.C., on May 31, 1973.

C. R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

[FR Doc.73-11355 Filed 6-6-73;8:45 am]

[Docket No. 12493, Amendment 39-1661]

PART 39—AIRWORTHINESS DIRECTIVES

British Aircraft Corp. Viscount 810 Series Aircraft

A proposal to amend part 39 of the "Federal Aviation Regulations" to include an airworthiness directive requiring repetitive replacement of the rubber seal sleeves, P/N FRS.-F-Series 1, installed in the powerplant fire extinguisher system in the pipe connector assembly located at the engine fireproof bulkhead, on British Aircraft Corp. Viscount 810 series airplanes was published in the FEDERAL REGISTER on January 16, 1973 (38 FR 1593).

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received.

(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).)

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

BRITISH AIRCRAFT CORP. Applies to Viscount Series 810 airplanes.

Compliance is required as indicated.

To prevent a possible restriction in a powerplant fire extinguisher pipe to accomplish the following:

Within the next 500 hours' time in service after the effective date of this AD, unless already accomplished within 5 years prior to the effective date of this AD, and thereafter at intervals not to exceed 5 years from the last replacement, replace the rubber seal sleeves P/N FRS.-F-Series 1, installed in the power plant fire extinguisher system in the pipe connector assembly located at the engine fireproof bulkhead, with seal sleeves of the same part number.

(BAC Alert Preliminary Technical Leaflet No. 149, Issue 1, dated July 30, 1971, covers this same subject.)

This amendment becomes effective July 6, 1973.

Issued in Washington, D.C., on May 31, 1973.

C. R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

[FR Doc.73-11354 Filed 6-6-73;8:45 am]

[Docket No. 12124, Amendments 103-1, 121-104, and 135-36]

LOADING AND CARRYING DANGEROUS ARTICLES AND MAGNETIZED MATERIALS ON AIRCRAFT; TRAINING AND MANUAL REQUIREMENTS

The purpose of these amendments to parts 121 and 135 of the "Federal Aviation Regulations" is to require certificate holders under those parts to establish means for training personnel who have duties and responsibilities for the carriage and handling of dangerous articles and magnetized materials. The purpose of the amendment to part 103 is to assure that the pilot in command of an aircraft is notified in writing of the presence of such articles and materials aboard the aircraft.

These amendments are based on a notice of proposed rulemaking (notice 72-21) published in the FEDERAL REGISTER on August 8, 1972 (37 FR 15938). Except as specifically discussed hereinafter, these amendments and the reasons therefor are the same as those contained in notice 72-21.

Ten of the twenty public comments received in response to the notice favored the proposal and recommended early adoption; the other 10 comments either objected to the proposal or recommended certain revisions to it. A number of those who objected did so because, as they understood the proposal, it would require part 135 certificate holders to establish a training program even though they never engage in the transportation of hazardous materials. In this respect the proposal has been misunderstood, for it is intended to require a part 135 certificate holder to provide a program of training only if it undertakes to engage in the transportation of hazardous materials.

by prohibiting the certificate holder from engaging in the transportation of those materials unless the person responsible for the handling and carriage of them has received appropriate training within the preceding 12 calendar months under a training program established by the certificate holder. To clarify this intent, paragraphs (a) and (b) of proposed § 135.140 have been consolidated into paragraph (a) of § 135.140 as adopted herein.

In addition, certain other changes have been made in the specific wording of the proposal, by these amendments, which are considered minor and clarifying in nature.

A few commentators expressed the belief that the manual requirements, without training, would be sufficient to provide the desired level of safety. However, the FAA believes the initial and recurrent training requirement is essential to assure both understanding and use of the manual.

Comment also expressed the view that the entire responsibility for transporting dangerous articles should rest with the shipper. We recognize that the shipper has the primary responsibility for ensuring that his shipment complies with the requirements prescribed in part 103 for the shipment of dangerous articles by air. However, for the reasons explained in the notice, we believe safety in air commerce also requires the training of personnel of the operators who are assigned duties and responsibilities for the handling and carriage of shipments of dangerous articles, to ensure that they have been instructed regarding the applicable regulations in part 103 governing proper packaging, marking, labeling, and documentation of dangerous articles and magnetic materials; and have been instructed regarding the compatibility, loading, storage, and handling characteristics of such articles.

Other comment requested some clarification of which personnel of the carrier are required to be trained. As proposed, the regulations adopted herein require training for those persons having duties and responsibilities for the carriage and handling of dangerous articles and magnetized materials governed by part 103. Personnel of the carrier having those duties and responsibilities would be the pilot in command of the particular aircraft carrying the shipment, any other crewmember assigned specific duties and responsibilities for the shipment during flight, and those ground personnel who handle it for the purpose of preparing it for shipment, loading it on the aircraft, and unloading it from the aircraft.

Certain comments recommended other changes to the regulations to increase the safety of carriage of dangerous articles by air. For example, it was recommended that geiger counters and devices for detecting radioactive leakage or emission be employed by air carriers. Others recommended that the pilot in command and other persons be given specific instructions as to the proper action to be taken in the event of an accident or an incident. While the FAA believes that these recommendations may have merit, they are considered to be beyond the scope of the rulemaking proposed in notice 72-21.

These amendments are issued under the authority of sections 313(a), 601, and 902 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1472), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing and for the reasons given in notice 72-21, parts 103, 121, and 135 are amended, effective July 6, 1973, as follows:

PART 103—TRANSPORTATION OF DANGEROUS ARTICLES AND MAGNETIZED MATERIALS

1. By amending § 103.25 to read as follows:

§ 103.25 Notification of pilot in command.

Whenever articles subject to the provisions of this part are carried in an aircraft, the operator of the aircraft shall inform the pilot in command, before takeoff, in writing, of the shipping name and the classification of each dangerous article as prescribed in 49 CFR 172.5, the quantity in terms of weight, volume or as otherwise appropriate, and the location of the dangerous articles in the aircraft. The person marking the cargo-load manifest shall mark it conspicuously to indicate the dangerous articles.

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

2. By amending § 121.135(b), by amending subparagraph (23), and by adding a new subparagraph (24) to read as follows:

§ 121.135 Contents.

* * * * *

(b) * * *

(23) Procedures and instructions relating to the handling of dangerous articles and magnetized materials, if these materials are to be carried, stored, or handled, including:

(i) Procedures for determining the proper shipper certification required by § 103.3 of this chapter, proper packaging, marking, labeling, shipping documents, compatibility of articles, and instructions on the loading, storage, and handling thereof.

(ii) Notification procedures for reporting dangerous article incidents as required by § 103.28 of this chapter.

(iii) Instructions and procedures for the notification of the pilot in command when there are dangerous articles aboard, as required by § 103.25 of this chapter.

(24) Other information or instructions relating to safety.

* * * * *

3. By amending the title of subpart N of part 121 to read as follows: "Subpart N—Training Program."

4. By amending § 121.400 to read as follows:

§ 121.400 Applicability and terms used.

(a) This subpart prescribes the requirements applicable to each certificate holder for establishing and maintaining a training program for crewmembers, aircraft dispatchers, and other operations personnel, and for the approval and use of training devices in the conduct of the program.

* * * * *

5. By amending § 121.401(a)(1) to read as follows:

§ 121.401 Training program: General.

(a) Each certificate holder shall:

(1) Establish, obtain the appropriate initial and final approval of, and provide, a training program that meets the requirements of this subpart and appendixes E and F and that insures that each crewmember, aircraft dispatcher, flight instructor, and check airman, and each person assigned duties for the carriage and handling of dangerous articles and magnetized materials, is adequately trained to perform his assigned duties.

* * * * *

6. By adding a new § 121.433a after § 121.433 to read as follows:

§ 121.433a Training requirements: Handling and carriage of dangerous articles and magnetized materials.

(a) After December 6, 1973, no certificate holder may use any person to perform, and no person may perform, any assigned duties and responsibilities for the handling or carriage of dangerous articles and magnetized materials governed by part 103 of this chapter, unless within the preceding 12 calendar months that person has satisfactorily completed training in a program established and approved under this subpart which includes instructions regarding the proper packaging, marking, labeling, and documentation of dangerous articles and magnetized materials, as required by part 103 of this chapter; and instruction regarding their compatibility, loading, storage, and handling characteristics.

(b) Each certificate holder shall maintain a record of the satisfactory completion of the initial and recurrent training given to crewmembers and ground personnel who perform assigned duties and responsibilities for the handling and carriage of dangerous articles and magnetized materials.

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS OF SMALL AIRCRAFT

7. By amending § 135.27(b) by deleting the word "and" in subparagraph (13), by amending subparagraph (14), and by adding a new subparagraph (15) to read as follows:

§ 135.27 Manual requirements.

* * * * *

(b) * * *

(14) Procedures and instructions relating to the handling and carriage of dangerous articles and magnetized materials, if these materials are to be carried, stored, or handled, including:

(i) Procedures for determining the proper shipper certification required by § 103.3 of this chapter, proper packaging, marking, labeling, shipping documents, compatibility of articles, and instructions on the loading, storage, and handling thereof.

(ii) Notification procedures for reporting dangerous article incidents as required by § 103.28 of this chapter.

(iii) Instructions and procedures for the notification of the pilot in command when there are dangerous articles aboard, as required by § 103.25 of this chapter.

(15) Other procedures and policy instructions pertinent to the certificate holder's operations, that are issued by the certificate holder.

* * * * *

8. By adding a new § 135.140 to read as follows:

§ 135.140 Training requirements: Handling and carriage of dangerous articles and magnetized materials.

(a) After December 6, 1973, no certificate holder may use any person to perform, and no person may perform, any assigned duties and responsibilities for the handling or carriage of dangerous articles and magnetized materials, unless within the preceding 12 calendar months that person has satisfactorily completed initial or recurrent training in an appropriate training program established by the certificate holder, which includes instruction regarding the proper shipper certification, packaging, marking, labeling, and documentation for dangerous articles and magnetic materials, and includes instruction regarding their compatibility, loading, storage, and handling characteristics.

(b) Each certificate holder shall maintain a record of the satisfactory completion of the initial and recurrent training given to crewmembers and ground personnel who perform assigned duties and responsibilities for the handling and carriage of dangerous articles and magnetic materials.

Issued in Washington, D.C., on May 29, 1973.

JAMES E. DOW,
Acting Administrator.

[FR Doc.73-11356 Filed 6-6-73;8:45 am

[Docket No. 12882, Amendment 867]

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 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $3 each.

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

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

1. Section 97.23 is amended by originating, amending, or canceling the following VOR-VOR/DME SIAP's, effective July 19, 1973:

Chandler, Ariz.—Stellar City Air Park, VOR runway 17, Amendment 1.
Cleveland, Tex.—Cleveland Municipal Airport, VOR-A (TAC), original.
Connersville, Ind.—Mettel Field, VOR/DME-A, amendment 1.
Cornelia, Ga.—Habersham County Airport, VOR/DME runway 6, original.
Corpus Christi, Tex.—Corpus Christi International Airport, VOR runway 17 (TAC), amendment 17.
Decatur, Ark.—Crystal Lake Airport, VORTAC runway 13, amendment 2.
Decatur, Ill.—Decatur Airport, VOR runway 36, amendment 9.
Destin, Fla.—Destin-Ft. Walton Beach Airport, VOR-A, original.
East Stroudsburg, Pa.—Stroudsburg-Pocono Airpark, VOR/DME-A, original.
Elgin, Ill.—Elgin Airport, VOR-A, amendment 4.
Houston, Tex.—Houston Intercontinental Airport, VORTAC runway 14, amendment 4.
Houston, Tex.—Houston Intercontinental Airport, VORTAC runway 32, amendment 3.
Jackson, Wyo.—Jackson's Hole Airport, VOR-1, amendment 4, Canceled.
Jackson, Wyo.—Jackson's Hole Airport, VOR-A, original.
Killeen, Tex.—Killeen Municipal Airport, VOR-A, amendment 7.
Kotzebue, Alaska—Ralph Wien Memorial, VOR runway 26, amendment 3.
LaPorte, Tex.—La Porte Municipal Airport, VOR-A (TAC), amendment 5.
Los Banos, Calif.—Los Banos Municipal Airport, VOR/DME runway 32, amendment 1.
Livermore, Calif.—Livermore Municipal Airport, VOR/DME-A, original.
Mason City, Iowa—Mason City Municipal Airport, VORTAC runway 17, amendment 6.
Mason City, Iowa—Mason City Municipal Airport, VORTAC runway 35, amendment 2.
Mt. Pleasant, Mich.—Mt. Pleasant Municipal Airport, VOR runway 27, amendment 2.
Shelbyville, Ind.—Shelbyville Municipal Airport, VOR runway 18, amendment 2.
Sidney, N.Y.—Sidney Municipal Airport, VOR-A, original.
Sioux City, Iowa—Sioux City Municipal Airport, VORTAC runway 13, amendment 9.
Sioux City, Iowa—Sioux City Municipal Airport, VORTAC runway 31, amendment 18.
Sidney, Ohio—Sidney Airport, VOR runway 22, amendment 7.
Santee, S.C.—Wings and Wheels Airport, VOR-A, original.
Willmar, Minn.—Willmar Municipal Airport, VOR runway 11, amendment 5.
Willmar, Minn.—Willmar Municipal Airport, VOR runway 29, original.
Willows, Calif.—Willows-Glenn County Airport, VOR runway 34, amendment 1.
Willows, Calif.—Willows-Glenn County Airport, VOR/DME runway 34, amendment 1.

* * * effective June 21, 1973:

Fayetteville, N.C.—Fayetteville Municipal/Grannis Field, VOR runway 3, amendment 8.
Fayetteville, N.C.—Fayetteville Municipal/Grannis Field, VOR runway 21, amendment 1.
Fayetteville, N.C.—Fayetteville Municipal/Grannis Field, VOR runway 27, amendment 1.

* * * effective June 14, 1973:

Merced, Calif.—Merced Municipal Airport, VOR runway 12, amendment 2.
Merced, Calif.—Merced Municipal Airport, VOR runway 30, amendment 8.

2. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-DA SIAP's, effective July 19, 1973:

Decatur, Ill.—Decatur Airport, LOC (BC) runway 24, amendment 1.
Houston, Tex.—Houston Intercontinental Airport, LOC (BC) runway 26, amendment 3.
Sarasota (Bradenton), Fla.—Sarasota-Bradenton Airport, LOC (BC) runway 13, original.
San Diego, Calif.—San Diego International Lindberg Field, LOC/DME (BC) runway 27, amendment 1.

* * * effective June 21, 1973:

Fayetteville, N.C.—Fayetteville Municipal/Grannis Field, LOC (BC) runway 21, original.

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAP's, effective July 19, 1973:

Athens, Ga.—Athens Municipal Airport, NDB runway 2, original, canceled.
Athens, Ga.—Athens Municipal Airport, NDB runway 27, original, canceled.
Connersville, Ind.—Mettel Field, NDB runway 18, amendment 3.

Glendive, Mont.—Dawson Community Airport, NDB runway 12, original.
Houston, Tex.—Houston Intercontinental Airport, NDB runway 8, amendment 1.
Houston, Tex.—David Wayne Hooks Memorial, NDB runway 17R, amendment 2.
Killeen, Tex.—Killeen Municipal Airport, NDB-B, amendment 2.
Ludington, Mich.—Mason County Airport, NDB runway 25, amendment 2.

* * * effective July 5, 1973:

Newark, N.J.—Newark International Airport, NDB runway 22L, original.
Newark, N.J.—Newark International Airport, NDB runway 22R, amendment 3.

* * * effective June 21, 1973:

Fayetteville, N.C.—Fayetteville Municipal/Grannis Field, NDB runway 3, amendment 7.
Rice Lake, Wis.—Arrowhead Airport, NDB runway 36, original.

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAP's, effective July 19, 1973:

Amarillo, Tex.—Amarillo Air Terminal, ILS runway 3, amendment 13.
Decatur, Ill.—Decatur Airport, ILS runway 6, amendment 3.
Groton/New London, Conn.—Trumbull Airport, ILS runway 5, amendment 2.
Houston, Tex.—Houston Intercontinental Airport, ILS runway 8, amendment 2.
Houston, Tex.—Houston Intercontinental Airport, ILS runway 14, amendment 2.
Medford, Oreg.—Medford-Jackson County Airport, ILS runway 14, amendment 6.
Pittsburgh, Pa.—Greater Pittsburgh Airport, ILS runway 28L, amendment 15.

* * * effective July 5, 1973:

Newark, N.J.—Newark International Airport, ILS runway 22L, original.
Newark, N.J.—Newark International Airport, ILS runway 22R, amendment 4.

* * * effective June 21, 1973:

Fayetteville, N.C.—Fayetteville Municipal/Grannis Field, ILS runway 3, amendment 7.

* * * effective June 14, 1973:

Chicago, Ill.—Chicago O'Hare International Airport, ILS runway 27L, amendment 2.
Chicago, Ill.—Chicago O'Hare International Airport, parallel ILS runway 27L, amendment 2.
Merced, Calif.—Merced Municipal Airport, ILS runway 30, original.

5. Section 97.31 is amended or originating, amending, or canceling the following Radar SIAP's, effective July 19, 1973:

Houston, Tex.—Houston Intercontinental Airport, Radar-A, amendment 1.
Seattle, Wash.—Seattle-Tacoma International Airport, Radar-1, amendment 19.

* * * effective June 21, 1973:

Fayetteville, N.C.—Fayetteville Muncipal/Grannis Field, Radar-1, original.

6. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAP's, effective July 19, 1973:

East Stroudsburg, Pa.—Stroudsburg-Pocono Airpark, RNAV runway 08, original.
East Stroudsburg, Pa.—Stroudsburg-Pocono Airpark, RNAV runway 26, original.
Houston, Tex.—Houston Intercontinental Airport, RNAV runway 14, amendment 1.
Houston, Tex.—Lakeside Airport, RNAV runway 15, original.
Houston, Tex.—Houston Intercontinental airport, RNAV runway 32, amendment 1.
Little Rock, Ark.—Adams Field, RNAV runway 22, amendment 2.
Little Rock, Ark.—Adams Field, RNAV runway 35, amendment 2.
Stockton, Calif.—Stockton Metropolitan Airport, RNAV runway 29R, original.
Willows, Calif.—Willows-Glenn County Airport, RNAV runway 16, original.
Wilmington, Del.—Greater Wilmington Airport, RNAV runway 9, original.

Corrections.

In docket No. 12815, amendment 865, to part 97 of the "Federal Aviation Regulations," published in the FEDERAL REGISTER dated May 24, 1973, on page 13636, under § 97.29, effective July 5, 1973, change effective date of Bluefield, W. Va., ILS runway 23, original, to June 28, 1973.

In docket No. 12815, amendment 865, to part 97 of the "Federal Aviation Regulations," published in the FEDERAL REGISTER dated May 24, 1973, on page 13636, under § 97.31, effective July 5, 1973, disregard procedure listed under Fargo, N. Dak., Hector Field, Radar-1, original.

(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) and 5 U.S.C. 552(a)(1).)

Issued in Washington, D.C., on May 31, 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.73-11353 Filed 6-6-73;8:45 am]

Title 15—Commerce and Foreign Trade

CHAPTER I—BUREAU OF THE CENSUS, DEPARTMENT OF COMMERCE

PART 30—FOREIGN TRADE STATISTICS

Alternate (Intermodal) Shipper's Export Declaration

In a notice of proposed rulemaking published in the FEDERAL REGISTER of February 12, 1973, it was proposed to eliminate the use by exporters or their agents of Commerce Form 7525-V-Alternate (horizontal) and make Commerce Form 7525-V-Alternate-Intermodal the sole official alternate (horizontal) Shipper's Export Declaration effective July 1, 1973.

Interested persons were given until March 14, 1973, to file with the Bureau of the Census, Foreign Trade Division, Washington, D.C. 20233, such written comments and related materials as they desired.

After due consideration of all comments received, it has been decided that it is desirable to allow exporters or their agents more time to effect the transition to making Shipper's Export Declaration Alternate-Intermodal the sole official alternate (horizontal) Shipper's Export Declaration. Accordingly, exporters, agents, and carriers, are hereby notified that both the Alternate Shipper's Export Declaration form (revised September 15, 1971) and the Shipper's Export Declaration, Commerce Form 7525-V-Alternate-Intermodal (dated January 1, 1971) continue as acceptable forms of Shipper's Export Declarations through December 1973. After that date (i.e., effective January 1, 1974) Commerce Form 7525-V-Alternate-Intermodal, shall be the only acceptable form of alternate (horizontal) Shipper's Export Declaration. No change in the continued acceptability of the regular (vertical) Shipper's Export Declaration, Commerce Form 7525-V is involved.

This notice is issued under the authority of title 13, United States Code, section 302; and 5 U.S.C. 301; Reorganization Plan No. 5 of 1950, Department of Commerce Organization Order No. 35-4A, January 1, 1972, 37 FR 3461.

ROBERT L. HAGAN,
Acting Director,
Bureau of the Census.

I concur May 24, 1973.

BRENT F. MOODY,
Acting Assistant Secretary
of the Treasury.

[FR Doc.73-11334 Filed 6-6-73;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER C—DRUGS

PART 146—ANTIBIOTIC DRUGS; PROCEDURAL AND INTERPRETATIVE REGULATIONS

Antibiotic Certification Fees

The Commissioner of Food and Drugs has approved an increase in the fees for certifying antibiotic drugs. This increase is due to assignment of all related costs and general increase in all costs.

In addition to amending the antibiotic regulations (21 CFR 146.8(b)), to reflect revision of the fees for existing tests, a new test "Column chromatographic isomer content" costing $109 per test is added.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357), and under authority delegated to the Commissioner (21 CFR 2.120), § 146.8(b) is amended by revising the introductory text and subparagraphs (1) and (2) to read as follows:

§ 146.8 Fees.

* * * * *

(b) The fee for such services with respect to each batch of a drug, certification of which is provided by the regulations in this chapter, including those published hereafter, is the sum of the fees for all tests required for certification of each batch. The minimum tests for each batch shall be those prescribed in the section relating specifically to such drug.

(1) The fee schedule for antibiotic drug certification is as follows:

Test:	Chargeable fee per test
Arquad content	$27
Butanol content	55
Candicidin potency (special turbidimetric)	55
Capreomycin I content	242
Color identity	10
Column chromatographic isomer content	109
Crystallinity	4
Cycloserine color assay	37
Dactinomycin potency (special plate)	55
Disc potency	31
Doxycycline purity (paper chromatography)	110
Free chloride	81
Gas chromatography	55
Gentamicin C	185
Heavy metals test	18
Histamine test	35
Infrared identity	23
Infrared quantitative	47
Karl Fisher moisture	10
LD_{50} toxicity	216
Loss on drying	14
Melting range	9
Metal particles (ophthalmic ointments)	27
Microbiological assay, plate	25
Microbiological assay, turbidimetric	13
Micro-organism count	59
Minocycline content	109
Nonaqueous titrations (and complexiметric)	11
Paper chromatographic identity	55
Penicillin chemical assay	12
Penicillin contamination	27
Penicillin G content	27
pH	4
Procaine colorimetric	10
Pyrogens test: 3 rabbits	115
Pyrogens test: 8 rabbits	229
Residual streptomycin	13
Residue on ignition	32
Safety test	24
Specific rotation	18
Specific surface area	27
Sterility test	59
Sulfate content	11
Tablet disintegration	6
Thin layer chromatographic identity	27
Total chlorine	81
Undecylenic acid content	23
Ultraviolet identity	23
Ultraviolet potency	23
Vancomycin identity	162
Zinc titration	36

(2) In the case of a supplemental request submitted pursuant to the provisions of § 144.3 of this chapter, the fee shall be $8.

* * * * *

Since the amendments established by this order are necessary to provide, equip, and maintain an adequate antibotic drug certification service; notice and public procedure and delayed effective date are not prerequisites to this promulgation.

Effective date.—This order shall be effective July 1, 1973.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357.)

Dated June 1, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-11391 Filed 6-6-73;8:45 am]

Title 24—Housing and Urban Development

SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-73-227]

PART 42—RELOCATION PAYMENTS AND ASSISTANCE AND REAL PROPERTY ACQUISITION UNDER THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

Establishment of Grievance Procedures Relating to Adequacy of Replacement Housing

Pursuant to the authority vested in him by section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)), the Secretary of Housing and Urban Development is amending title 24, part 42 of the Code of Federal Regulations by adding a new subpart G entitled "Grievance Procedures Relating to Adequacy of Replacement Housing". This subpart is intended to prescribe the Department's procedure for granting administrative relief to any person aggrieved by proposed or effected displacement accomplished under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.), with regard to the obligation of the State agency to refer such person to an adequate replacement dwelling. The subpart sets forth the procedures for review of complaints by the State agency, and review by the appropriate HUD area office if desired.

On March 23, 1973 (38 FR 7570) the Department first published the grievance procedures for public comment as a notice of proposed rulemaking. The Department has now considered the comments received and promulgates these grievance procedures to be effective on June 7, 1973. Principal changes and the Department's response to significant comments are set forth below.

A number of State agencies expressed the concern that the proposed procedures will be unnecessarily time consuming and will result in unreasonable delays in project activities. Two significant changes have been made in order to be responsive to these comments. First, we have reduced the types of complaints which can be filed so as to remove grievances relating merely to relocation services from the scope of the regulation. Thus, the grievance procedures as now issued are limited to complaints with respect to the adequacy of replacement housing offered to persons. Second, the time limits for the State agency and for the HUD area office to consider complaints have been shortened, and the time for filing a request for HUD review has been cut from 30 days to 10 days. In addition, handling of complaints under these procedures will be carefully monitored so as to determine whether unreasonable delays are taking place, and if necessary, further modifications will be made.

Several comments urged that it is inappropriate to permit the bringing of class actions. Grievances regarding the adequacy of replacement housing are by their very nature highly individualized matters. If class actions were permitted, it would be unclear as to what persons should be deemed members of the class. It has accordingly been determined to eliminate any provision for class actions. No change has been made in the provision of § 42.305(b) permitting joint complaints. In addition, it should be noted that § 42.360 provides that principles established in determinations under these procedures shall be applied by the State agency in all similar cases.

Several suggestions have been received which would create or approximate a more formal procedure than the present regulation envisions. It has been proposed to apply the formal rules of evidence, permit a right to confrontation and cross-examination, to impose a requirement for legal representation and to guarantee the right to rebut all evidence presented by a State agency in support of its decision adverse to any complainant. While the Department is sympathetic to the considerations which prompted these suggestions, it was determined that the review procedures should be a basically informal presentation before both the State agency and the HUD area office. The review process is regarded as a means for stimulating the exchange of views and information between the complainant and the State agency with the object of resolving the dispute in a quick and informal manner. The procedure as proposed would allow for the consideration of all relevant evidence without subjecting the claimant to the formalities involved in a quasi-judicial proceeding. For these reasons, we have determined not to accept the suggestion for the adoption of a more formalized procedure.

The suggestion that claimant be allowed to review the files relating to his complaint is accepted. Accordingly, we have provided for this in § 42.320.

Section 42.320 of the proposed procedures, entitled "Recommendations by third party," has been deleted because of adverse comments which have been received. It has been determined after consideration of these comments that grievances with respect to adequacy of replacement housing are in many cases not appropriate for referral to third parties.

It has also been suggested that it is inappropriate to require State agencies to review their own determinations. We are not persuaded by this view. Since the programs covered by these procedures are basically local programs carried out with HUD financial assistance, the Department believes that it is important to give the State agency the first opportunity to review grievances and to provide prompt relief to persons with a proper complaint.

Several comments expressed the concern that the criteria to evaluate adequacy of replacement housing are too vague. While some subjective judgment is no doubt involved, we have concluded that the standards set forth in § 42.120 of subpart C of these regulations (which

have been in effect since May 13, 1971), are reasonable and as specific as feasible under the circumstances.

Several comments raised questions about the oral presentation provided for in § 42.310. With respect to the efficacy of the oral presentation, it is our expectancy that this procedure will be a useful device to resolve problems at the most informal level. It should be noted further that the filing of a request for an oral presentation does not permit any added delay, in that the filing of such a request does not entitle the complainant to a stay of displacement. This is made clear in §§ 42.310(a) and 42.335.

Accordingly, part 42 is amended to add a new subpart G to read as follows:

Subpart G—Grievance Procedures Relating to Adequacy of Replacement Housing

Sec.

AUTHORITY.—Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); section 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4633.

Subpart G—Grievance Procedures Relating to Adequacy of Replacement Housing

§ 42.300 Purpose.

The purpose of this subpart is to set forth guidelines for processing complaints from persons who believe themselves aggrieved by the failure of the State agency to refer them to adequate replacement housing as provided by § 42.120 of subpart C of the regulations in this part.

§ 42.305 Right of appeal.

(a) *General.*—A complainant, meaning a person who believes himself aggrieved by a failure of a State agency to refer him to adequate replacement housing as provided by § 42.120 of subpart C of these regulations, may file a complaint with the head of the State agency or his authorized designee. Advice on the right to file a complaint under these procedures shall be a part of the information statement required by § 42.165 of subpart C of the regulations in this part. Where such person is not satisfied with the results of the State agency's determination, he is entitled to have his complaint reviewed by HUD.

(b) *Joint complainants.*—Two or more complainants may join in filing a single written request for review with the State agency provided that each is aggrieved by the failure of the State agency to refer him to adequate replacement housing as provided in § 42.120 of subpart C of the regulations in this part. A determination should be made by the State agency for each of the complainants.

§ 42.310 Request for State agency review.

(a) *Oral presentation.*—Upon request of the complainant, the State agency shall, within 15 days of the request, afford him an opportunity to make an oral presentation prior to filing a written request for review pursuant to paragraph (c) of this section. This oral presentation shall enable the complainant in the company of an advisor, attorney or other representative, if he so wishes, to discuss his complaint with the head of the State agency or his authorized designee. Such designee shall be someone other than the person who has been providing relocation services. The request of a complainant for an oral presentation shall not entitle him to any stay of displacement.

(b) *Time limits for requesting oral presentation.*—This right to an oral presentation shall be available to a complainant at any time prior to the date of displacement and no later than 6 months after displacement, unless closeout of the project occurs prior to that time, in which case the oral presentation must be requested prior to project closeout or within 90 days following displacement, whichever is later. If the State agency rejects the complainant's contentions in whole or in part, it must notify the complainant, with a copy to HUD, that he has a right to file a written request for State agency review. The State agency shall make a summary of the matters discussed in the oral presentation and it should be included as part of its file.

(c) *The written request for review.*—The complainant may file a written request for review with the head of the State agency within the time limits prescribed by paragraph (d) of this section and such written request may include any statement of fact within complainant's knowledge or belief, or other material which has a bearing on his appeal. If the complainant requests more time to gather and prepare additional information for consideration or review and demonstrates a reasonable basis therefor, he may be granted additional time. If the complainant is unable to prepare the written complaint, the State agency shall offer to provide assistance to the complainant and further notify the complainant of other available sources of assistance. The State agency, however, shall consider every complaint regardless of form. The making of an oral presentation pursuant to paragraph (a) of this section shall not be deemed a condition precedent to the filing of a written request for review.

(d) *Time limits for filing written request for review.*—A complainant may file a written request for review with the State agency at any time prior to the date of displacement. Such request for review may also be filed with the State agency no later than 6 months after displacement, unless final closeout of the project occurs prior to that time, in which case the written request must be made prior to project closeout or within 90 days following displacement, whichever date is later: *Provided,* That in any case in which an oral presentation is requested after displacement pursuant to paragraph (a) of this section, the time period specified in this paragraph shall be extended if necessary so that a complainant shall have no less than 30 days from the date he is advised of the determination on the oral presentation.

§ 42.315 State agency review of the written request.

(a) *General.*—The State agency shall review the written request for review and shall make a determination as to whether adequate replacement housing has been offered to a complainant as provided by § 42.120 of subpart C of these regulations. The State agency shall issue to the complainant a copy of the determination and shall notify the complainant of his right to seek HUD review. A copy of the determination shall also be sent to HUD. The review shall not be made by the official who provides the relocation services, nor anyone subordinate to that official.

(b) *Scope of review.*—In making its determination, the State agency shall consider the following:

(1) All material upon which the State agency based its original determination, including all applicable rules and regulations;

(2) The reasons given by the complainant in support of his complaint;

(3) Whatever additional written material has been submitted by the complainant for the purpose of this review; and

(4) Any further information the State agency may, in its discretion, obtain by request, investigation or research to insure a fair and full review of the complaint.

(c) *Determination on review.*—The written determination on review shall include, but is not limited to:

(1) The agency's decision upon review of the complaint;

(2) The factual and legal basis upon which this decision is based, including any pertinent explanation or rationale for the decision;

(3) The relief to which the complainant is entitled, and a brief statement on how this will be achieved; and

(4) A statement of complainant's right to seek further review by HUD and an explanation of what steps the complainant must take to obtain this review.

(d) *State agency determinations not based on merits.*—A State agency's refusal to provide an oral presentation after one has been requested or review a written complaint on the merits (e.g., because of complaint's failure to request an

oral presentation or file for written review within the required time or because the matter is not deemed ripe for determination), shall upon complainant's request, be reviewed by HUD in the manner described in §§ 42.325 and 42.330. However, in any case where a State agency refuses to provide an oral presentation or review a written complaint, prior to displacement, because the matter is not ripe for determination, the complainant shall also be notified that he may request an oral presentation or file a written complaint at a later time if adequate housing is not provided.

(e) *Time limits.*—(1) The State agency shall issue its determination on review within 15 days from receipt of the last material submitted for consideration by the complainant in accordance with § 42.310.

(2) In the case of requests for oral presentations or written complaints dismissed for untimeliness or because the matter is not ripe for review or for any other reason not based on the merits, the State agency shall issue a statement to the complainant as to why the request for an oral presentation or written complaint was dismissed. The statement, with a copy to HUD, should be sent within 10 days of receipt of the last material submitted by the complainant or within 10 days of the complainant's request for an oral presentation.

§ 42.320 Review of files by complainant.

Except for confidential material, and except to the extent specifically prohibited by law, a State agency shall permit the complainant to inspect all files and records bearing upon the actions of the State agency in referring him to replacement housing or the prosecution of his grievance. The State agency may, however, impose reasonable conditions on the complainant's right to inspect.

§ 42.325 Request for HUD review.

(a) *General.*—A complainant who believes himself aggrieved as a result of the final determination of his written request for review by the State agency may request HUD to make a redetermination on his complaint. The request for HUD review shall be submitted in writing to the director of the appropriate HUD area office or, where there is no HUD area office, to the Regional Administrator of the appropriate HUD regional office. (Unless the context indicates otherwise, "Area Director" shall be used in this subpart to refer to the Regional Administrator where there is no area office.) The complainant shall also send a copy of his request for HUD review to the head of the State agency. The State agency shall then submit its complete file on the complaint to the Area Director as soon as possible, but in no event later than 5 days.

(b) *Submissions by complainant.*—The complainant may include in the request for review by the Area Director any statement of facts within his knowledge or belief or other material which will have a direct bearing on the complaint. The complainant need not, however, repeat arguments nor submit material previously provided to the State agency for its review: *Provided,* That where the complainant submits material to HUD which was not submitted to the State agency for review, HUD will provide the State agency with an opportunity to review such new material and to submit any comments which it wishes to make.

(c) *Time limit.*—The complainant shall file the written request for HUD review of his complaint with the Area Director (and the copy with the State agency) within 10 days from the date of receipt of the determination on review issued by the State agency.

§ 42.330 HUD review.

(a) *General.*—The Area Director shall review the complaint as submitted by the complainant together with the material submitted to him by the State agency and shall issue to the complainant a copy of the determination within 15 days from the receipt of the complete file of complainant's case from the State agency.

(b) *Scope of review.*—In making his determination, the Area Director shall consider the following:

(1) All the material upon which the State agency based its determination, including all applicable rules and regulations;

(2) The reasons given by the complainant for requesting reconsideration and review of his complaint;

(3) Whatever written material has been submitted by the complainant for the purposes of this review; and

(4) Any further information which HUD may, in its discretion, obtain by request, investigation or research to insure a fair and full review of the complaint.

(c) *Determination on review by HUD.*—The written determination by HUD shall include, but need not be limited to:

(1) The Area Director's decision on reconsideration of the complaint;

(2) The factual and legal findings upon which the decision is based, including any pertinent explanation or rationale for the decision;

(3) The relief, if any, to which the complainant is entitled, and directions to the State agency on how this shall be achieved;

(4) Notification to the complainant of his right to seek further HUD assistance if the relief specified in paragraph (c)(3) of this section is not provided;

(5) Notification to the complainant of his right to seek judicial review in the event the determination is adverse.

(d) *Review of State agency determinations not based on the merits.*—If the Area Director finds that the State agency's refusal to review the complaint on its merits was unreasonable, the complaint shall be remanded to the State agency for review on its merits within 15 days of the State agency's receipt of the remanded complaint. If the State agency's refusal to hear the complaint is not found to have been unreasonable, the Area Director shall so notify the complainant and inform him that he may have a right to judicial review: *Provided,* That in the case of complaints dismissed by a State agency as not ripe for determination, and upheld by the Area Director, the complainant should again be notified that he may request an oral presentation or file a written complaint at a stage which would warrant on oral presentation or review.

§ 42.335 Stay of displacement pending review.

If the written request is filed before displacement, the State agency shall not require the complainant to move until at least 20 days after it has made a determination and the complainant has had an opportunity to seek HUD review. If the complainant seeks HUD review, no displacement shall occur pending HUD's determination. If the HUD determination is adverse to the complainant, he may not be displaced until at least 20 days after receipt of notice of the HUD determination. In all cases, the State agency must notify the complainant in writing 20 days prior to the proposed new date of displacement, and in no case may a complainant be displaced unless he is offered comparable replacement housing as provided in § 42.120 of subpart C of the regulations in this part.

§ 42.340 Remedies for persons displaced.

Whenever it is determined by the State agency or by HUD that a complainant has been referred to replacement housing which fails to meet the criteria provided in subpart C of these regulations, the State agency shall take immediate steps to offer to the complainant replacement housing pursuant to § 42.120 of subpart C of the regulations in this part. The State agency will pay for the reasonable costs of the move to such replacement housing, either by arranging for the move and paying the mover directly, or by reimbursing the complainant for the reasonable costs of the move. Such expenditures are deemed eligible costs in connection with the administration of relocation.

§ 42.345 Extension of time limits.

The time limits specified in §§ 42.310, 42.325 and 42.330 (a) and (d) may be extended for good cause by the State agency or by the Area Director, respectively.

§ 42.350 Construction of rules and regulations.

This subpart, and all applicable rules and regulations on which State agency and HUD determinations are based, shall be so construed as to fulfill the statutory

purpose as declared in section 201 of the act of "fair and equitable treatment" in order that displaced persons "not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole".

§ 42.355 **Right to representation.**

Any aggrieved party has a right to representation by legal counsel and to be accompanied by an advisor, attorney or other representative in any personal appearance held pursuant to this subpart, but solely at his own expense.

§ 42.360 **Effect of determination on other complaints.**

The principles established in all determinations by a State agency (unless modified upon review by HUD), or by HUD shall be applied to all similar cases.

§ 42.365 **Right to judicial review.**

Nothing in this subpart shall in any way preclude or limit a complainant from seeking judicial review of his complaint on the merits upon exhaustion of such administrative remedies as are available to him under this subpart.

Effective date.—These regulations are effective on June 7, 1973.

JAMES T. LYNN,
Secretary of Housing and Urban Development.

[FR Doc.73-11410 Filed 6-6-73;8:45 am]

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

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-141]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

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

§ 1914.4 **Status of participating communities.**

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
*	*	*	*	*	*	*
Colorado	Alamosa	Unincorporated areas				June 6, 1973, Emergency.
Do.	do.	Alamosa, City of				Do.
Minnesota	Wilkin	Unincorporated areas				Do.
New York	Jefferson	Orleans, Town of				Do.
Pennsylvania	Adams	Oxford, Township of				Do.
Do.	Allegheny	McKeesport, City of				Do.
Do.	Centre	Patton, Township of				Do.
Do.	do.	Harris, Township of				Do.
Do.	Columbia	Hemlock, Township of.				Do.
Do.	Fayette	Upper Tyrone, Township of.				Do.
Do.	Lackawanna	Dalton, Borough of				Do.
Do.	Lancaster	East Hempfield, Township of.				Do.
Do.	Lycoming	Cummings, Township of.				Do.
Do.	do.	McIntyre, Township of.				Do.
Do.	Montgomery	Pottstown, Borough of.				Do.
Do.	Schuylkill	McAdoo, Borough of				Do.
Do.	York	East Manchester, Township of.				Do.
Do.	do.	Goldsboro, Borough of.				Do.
Do.	do.	Lower Chanceford, Township of.				Do.
Do.	do.	Paradise, Township of.				Do.
Do.	do.	Wrightsville, Borough of.				Do.

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

Issued May 31, 1973.

CHARLES W. WIECKING,
Acting Federal Insurance Administrator.

[FR Doc.73-11243 Filed 6-6-73;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7278]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Depreciation Based on Class Lives for Property First Placed in Service Before January 1, 1971

By a notice of proposed rulemaking appearing in the FEDERAL REGISTER for Saturday, April 22, 1972, amendments to the "Income Tax Regulations" were proposed in order to provide an elective class life system, similar to the asset depreciation range system for computing depreciation allowances for taxable years ending after December 31, 1970, with respect to assets placed in service before January 1, 1971. After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, certain changes were made, and the proposed amendments subject to the changes indicated below are adopted by this document.

The final regulations provide an elective class life system for determining the reasonable allowance for depreciation of certain classes of assets for taxable years ending after December 31, 1970. The system applies only to assets placed in service before January 1, 1971. Depreciation for such assets during periods prior to January 1, 1971, may have been determined in accordance with Revenue Procedure 62–21. Accordingly, rules are provided which permit taxpayers to apply the system in taxable years ending after December 31, 1970, to such assets without the necessity of changing or regrouping their depreciation accounts other than as previously required by Revenue Procedure 62–21. The system is designed to minimize disputes between taxpayers and the Internal Revenue Service as to the useful life of assets, salvage value, and repairs. See § 1.167(a)–11 for a similar system for property placed in service after December 31, 1970. See paragraph (d)(2) of § 1.167(a)–11 for treatment of expenditures for the repair, maintenance, rehabilitation, or improvement of certain property. The system provided by the regulations is optional with the taxpayer. An election under the regulations applies only to qualified property in an asset guideline class for which an election is made and only for the taxable year of election. The taxpayer's election is made with the income tax return for the taxable year. The regulations also revoke the reserve ratio test for taxable years ending after December 31, 1970, and provide transitional rules for taxpayers who after January 11, 1971, adopt Revenue Procedure 62–21 for a taxable year ending prior to January 1, 1971.

The final regulations include in the definition of qualified property (§ 1.167(a)–12(a)(3)) certain property placed in service before January 1, 1971, but acquired and first placed in service by the taxpayer after December 31, 1970. Such property, if acquired as a result of a mere change in form, or as a result of a corporate transaction described in section 381(a), is not eligible for an election under the class life asset depreciation range system. Such property may qualify for an election under the final regulations adopted by this document.

The final regulations add a new provision (§ 1.167(a)–12(a)(4)(iii)) which may require normalization in the case of certain public utility property where the depreciation life used for ratemaking purposes is longer than the life used for tax purposes. In such a case, a public utility may be required to normalize the deferral resulting from the use of the shorter life permitted under Revenue Procedure 72–10.

The final regulations expressly state the manner of determining the allowance for depreciation in the year of election where the class life differs from the life previously used for depreciation. The proposed regulations did not expressly specify the manner of computation. The provisions of the final regulations follow the rules generally applicable to changes in depreciation method and depreciation life.

The final regulations also clarify the rules of § 1.167(a)–12(a)(5)(iv), relating to regrouping accounts. The proposed regulations provided that no depreciation accounts may be combined which could not be combined under part III of Revenue Procedure 65–13. Since certain taxpayers electing under the final regulations have not previously been subject to the restrictions of Revenue Procedure 65–13, the final regulations provide that in such cases, the depreciation amount in the taxable year of election may not exceed the amount which the taxpayer would have been allowed if the provisions of Revenue Procedure 65–13 had been followed. The final regulations make certain clarifying changes in the treatment of salvage value. Under the final regulations, salvage value must be established in the year of election based upon the facts and circumstances at or as of the close of the year in which the property is acquired. The salvage established will not be changed or adjusted if it is reasonable. However, since the provisions of Revenue Procedure 62–21 do not apply to taxable years ending after December 31, 1970, adjustments in the depreciation allowance for such taxable years, which result from substantially inaccurate salvage estimates, will be made without regard to the provisions of Revenue Procedure 62–21 relating to the estimation of salvage value. The final regulations, as did the proposed regulations, provide that adjustments will not be made in the depreciation allowance for any taxable year ending before January 1, 1971, as a result of the estimation of salvage value required by the final regulations.

The final regulations modify the provisions of § 1.167(a)–12(f)(1)(iii) which relate to the adoption of Revenue Procedure 62–21 for prior taxable years and provide a limitation on refunds. Under the proposed regulations, any provision of Revenue Procedure 62–21 may be applied to justify the depreciation life used by the taxpayer or to offset a deficiency asserted upon an audit. However, Revenue Procedure 62–21 could not be used to generate a tax refund or increase a loss carryover or carryback for a prior year unless the taxpayer had adopted the Revenue Procedure before January 12, 1971. Under the final regulations, an election of Revenue Procedure 62–21 after January 11, 1971, may result in a refund if the reserve ratio for the taxable year is met.

A new example (6) is added by the final regulations to § 1.167(a)–12(f)(2)(ii). The new example illustrates that a taxpayer may be considered to have adopted Revenue Procedure 62–21 for a taxable year based upon his actions in a subsequent taxable year.

Adoption of amendments to the regulations.—On April 22, 1972, notice of proposed rulemaking with respect to the amendment of the "Income Tax Regulations" (26 CFR, pt. 1) under section 167 to provide an elective guideline class life system, similar to the class life asset depreciation range system, for assets placed in service before January 1, 1971, for taxable years ending after December 31, 1970, was published in the FEDERAL REGISTER (37 FR 7981). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment as proposed is hereby adopted, subject to the changes which follow:

PARAGRAPH 1. Section 1.167(a)–12(a) is changed by revising the fourth sentence of subparagraph (1), by revising subparagraph (3), by adding a new subparagraph (4)(iii), and by revising subparagraph (5)(i), (ii)(*b*), (iv), and (v), to read as set forth below:

PAR. 2. Section 167(a)–12(b) is changed by revising the second sentence of that portion of subparagraph (1) as follows subdivision (ii), and by revising the first sentence, adding two new sentences after the first sentence, and revising the third sentence of subparagraph (2), to read as set forth below:

PAR. 3. Section 1.167(a)–12(c) is changed by revising the first sentence of subparagraph (1)(i), by revising subparagraph (2)(i) and (iii), by revising the third sentence of subparagraph (3), and revising example (1), the first sentence of example (2), and example (4) of subparagraph (4). As revised the provisions read as set forth below:

PAR. 4. Section 1.167(a)–12(e) is changed by deleting "120" from subparagraph (2) and inserting in lieu thereof a date 150 days after publication in the FEDERAL REGISTER, by deleting subparagraph (3)(vi) and redesignating subparagraph (3)(vii) as (3)(vi), and by revising the second and third sentences of that portion of subparagraph (3) as follows (vi) thereof, to read as set forth below:

PAR. 5. Section 1.167(a)–12(f) is changed by revising the first, second, and third sentences of that portion of subparagraph (1)(i) as follows (*f*) thereof, by revising subparagraph (1)(iii), by

adding two new sentences immediately after the title to subparagraph (1)(iv), and by adding example (6) to subparagraph (2)(ii), to read as set forth below:

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

[SEAL] DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved June 1, 1973.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

In order to provide an elective guideline class life system, similar to the class life asset depreciation range system, for assets placed in service before January 1, 1971, for taxable years ending after December 31, 1970, the Income Tax Regulations (26 CFR Part 1) under section 167 of the Internal Revenue Code of 1954 are amended as follows:

The following new section is added immediately after § 1.167(a)-11 to read as follows:

§ 1.167(a)-12 Depreciation based on class lives for property first placed in service before January 1, 1971.

(a) *In general*—(1) *Summary.* This section provides an elective class life system for determining the reasonable allowance for depreciation of certain classes of assets for taxable years ending after December 31, 1970. The system applies only to assets placed in service before January 1, 1971. Depreciation for such assets during periods prior to January 1, 1971, may have been determined in accordance with Revenue Procedure 62-21. Accordingly, rules are provided which permit taxpayers to apply the system in taxable years ending after December 31, 1970, to such assets without the necessity of changing or regrouping their depreciation accounts other than as previously required by Revenue Procedure 62-21. The system is designed to minimize disputes between taxpayers and the Internal Revenue Service as to the useful life of assets, salvage value, and repairs. See § 1.167(a)-11 for a similar system for property placed in service after December 31, 1970. See paragraph (d)(2) of § 1.167(a)-11 for treatment of expenditures for the repair, maintenance, rehabilitation or improvement of certain property. The system provided by this section is optional with the taxpayer. An election under this section applies only to qualified property in an asset guideline class for which an election is made and only for the taxable year of election. The taxpayer's election is made with the income tax return for the taxable year. This section also revokes the reserve ratio test for taxable years ending after December 31, 1970, and provides transitional rules for taxpayers who after January 11, 1971, adopt Revenue Procedure 62-21 for a taxable year ending prior to January 1, 1971.

(2) *Revocation of reserve ratio test and other matters.* Except as otherwise expressly provided in this section and in paragraph (b)(5)(vi) of § 1.167(a)-11, the provisions of Revenue Procedure 62-21 shall not apply to any property for any taxable year ending after December 31, 1970, whether or not the taxpayer elects to apply this section to any property. See paragraph (f) of this section for rules for the adoption of Revenue Procedure 62-21 for taxable years ending prior to January 1, 1971.

(3) *Definition of qualified property.* The term "qualified property" means tangible property which is subject to the allowance for depreciation provided by section 167(a), but only if—

(i) An asset guideline class and asset guideline period are in effect for such property for the taxable year, and

(ii) The property is first placed in service by the taxpayer before January 1, 1971,

(iii) The property is placed in service before January 1, 1971, but first placed in service by the taxpayer after December 31, 1970, and is not includible in an election under § 1.167(a)-11 by reason of § 1.167(a)-11(b)(7) (property acquired as a result of a mere change in form) or § 1.167(a)-11(e)(3)(i) (certain property acquired in a transaction to which section 381(a) applies), or

(iv) The property is acquired and first placed in service by the taxpayer after December 31, 1970, pursuant to a binding written contract entered into prior to January 1, 1971, and is excluded in accordance with paragraph (b)(5)(iv) of § 1.167(a)-11 from an election to apply § 1.167(a)-11.

The provisions of paragraph (e)(1) of § 1.167(a)-11 apply in determining whether property is first placed in service before January 1, 1971. See subparagraph (4)(ii) of this paragraph for special rules for the exclusion of property from the definition of qualified property.

(4) *Requirements of election*—(i) *In general.* An election to apply this section to qualified property must be made within the time and in the manner specified in paragraph (e) of this section. The election must specify that the taxpayer consents to and agrees to apply all the provisions of this section. The election may be made separately for each asset guideline class. Thus, a taxpayer may for the taxable year elect to apply this section to one, more than one, or all asset guideline classes in which he has qualified property. An election to apply this section for a taxable year must include all qualified property in the asset guideline class for which the election is made.

(ii) *Special rules for exclusion of property from application of this section.* (a) If for the taxable year of election, the taxpayer computes depreciation under section 167(k) or computes amortization under sections 169, 185, 187, 188, or paragraph (b) of § 1.162-11 with respect to property, such property is not qualified property for such taxable year. If for the taxable year of election, the taxpayer computes depreciation under any method of depreciation (other than a method described in the preceding sentence) not permitted by subparagraph (5)(v) of this paragraph for any property in an asset guideline class (other than subsidiary assets excluded from an election under (*b*) of this subdivision), no property in such asset guideline class is qualified property for such taxable year.

(*b*) The taxpayer may exclude from an election to apply this section all (but not less than all) subsidiary assets. Subsidiary assets so excluded are not qualified property for such taxable year. For purposes of this subdivision the term "subsidiary assets" includes jigs, dies, molds, returnable containers, glassware, silverware, textile mill cam assemblies, and other equipment includable in Group One, Class 5, of Revenue Procedure 62-21 which is usually and properly accounted for separately from other property and under a method of depreciation not expressed in terms of years.

(iii) *Special rule for certain public utility property.*—(*a*) In the case of public utility property described in section 167(l)(3)(A)(iii) for which no guideline life was prescribed in Revenue Procedure 62-21 (or for which reference was made in Revenue Procedure 62-21 to lives or rates established by governmental regulatory agencies) of a taxpayer which—

(*1*) Is entitled to use a method of depreciation other than a "subsection (l) method" of depreciation (as defined in section 167(l)(3)(F)) only if it uses the "normalization method of accounting" (as defined in section 167(l)(3)(G)) with respect to such property, or

(*2*) Is entitled for the taxable year to use only a "subsection (l) method" of depreciation,

such property shall be qualified property (as defined in subparagraph (3) of this paragraph) only if the taxpayer normalizes the tax deferral resulting from the election to apply this section.

(*b*) The taxpayer will be considered to normalize the tax deferral resulting from the election to apply this section only if it computes its tax expense for purposes of establishing its cost of service for ratemaking purposes and for reflecting operating results in its regulated books of account using a period for depreciation no less than the period used for computing its depreciation expense for ratemaking purposes and for reflecting operating results in its regulated books of account for the taxable year, and the taxpayer makes adjustments to a reserve to reflect the deferral of taxes resulting from the use of a period for depreciation under section 167 in accordance with an election to apply this section different from the period used for computing its depreciation expense for ratemaking purposes and for reflecting operating results in its regulated books of account for the taxable year. A determination whether the taxpayer is considered to normalize under this subdivision the tax deferral resulting from the election to apply this section shall be made in a manner consistent

with the principles for determining whether a taxpayer is using the "normalization method of accounting" (within the meaning of section 167(1)(3)(G)). See § 13.13 of the temporary regulations prescribed by T.D. 7049 approved June 25, 1970.

(c) If a taxpayer, which has elected to apply this section to any qualified public utility property and is required under (a) of this subdivision to normalize the tax deferral resulting from the election to apply this section to such property, fails to normalize such tax deferral, the election to apply this section to such property shall terminate as of the beginning of the taxable year for which the taxpayer fails to normalize such tax deferral. Application of this section to such property for any period prior to the termination date will not be affected by this termination.

(5) *Determination of reasonable allowance for depreciation.*—(i) *In general.*—The allowance for depreciation of qualified property to which the taxpayer elects to apply this section shall be determined in accordance with this section. The annual allowance for depreciation is determined by using the method of depreciation adopted by the taxpayer and a rate based upon a life permitted by this section. In the case of the straight-line method of depreciation, the rate of depreciation shall be based upon the class life (or individual life if the taxpayer assigns individual depreciable lives in accordance with subdivision (iii) of this subparagraph) used by the taxpayer with respect to the assets in the asset guideline class. Such rate will be applied to the unadjusted basis of the asset guideline class (individual assets or depreciation accounts if the taxpayer assigns individual depreciable lives). In the case of the sum of the years-digits method of depreciation, the rate of depreciation will be determined based upon the remaining life of the class (or individual remaining lives if the taxpayer assigns such lives in accordance with subdivision (iii) of this subparagraph) and is applied to the adjusted basis of the class (or individual accounts or assets) as of the beginning of the taxable year of election. The remaining life of a depreciation account is determined by dividing the unrecovered cost or other basis of the account, as computed by straight-line depreciation, by the gross cost or unadjusted basis of the account, and multiplying the result by the class life used with respect to the account. In the case of the declining balance method of depreciation, the rate of depreciation for the asset guideline class shall be based upon the class life (or individual life if the taxpayer assigns such lives in accordance with subdivision (iii) of this subparagraph). Such rate is applied to the adjusted basis of the class (or individual accounts or assets) as of the beginning of the taxable year of election.

(ii) *Reasonable allowance by reference to class lives.* The amount of depreciation for all qualified property in an asset guideline class to which the taxpayer elects to apply this section will constitute the reasonable allowance provided by section 167(a) and the depreciation for the asset guideline class will not be adjusted if—

(a) The taxpayer's qualified property is accounted for in one or more depreciation accounts which conform to the asset guideline class, and the depreciation for each such account is determined by using a rate based upon a life not less than the class life, or

(b) The taxpayer's qualified property is accounted for in one or more depreciation accounts (whether or not conforming to the asset guideline class) for which depreciation is determined at a rate based upon the taxpayer's estimate of the lives of the assets (instead of the class life) and the total amount of depreciation so determined for the asset guideline class for the taxable year of election is not more than would be permitted under (a) of this subdivision for such year using the method of depreciation adopted by the taxpayer for the property.

See subdivision (vii) of this subparagraph for determination of reasonable allowance if depreciation exceeds the amount permitted by this subdivision. See paragraph (b) of this section for rules regarding the determination of "class life". For rules for regrouping depreciation accounts to conform to the asset guideline class, see subdivision (iv) of this subparagraph.

(iii) *Consistency when individual lives are used.* If the taxpayer assigns individual depreciable lives to assets in accordance with subdivision (ii)(b) of this subparagraph, even though the total amount of depreciation for the asset guideline class will not be adjusted, the lives assigned to the various assets in the asset guideline class must be reasonably in proportion to their relative expected periods of use in the taxpayer's business. Thus, although the taxpayer who uses individual asset lives normally has latitude in thereby allocating the depreciation for the asset guideline class among the assets, if the lives are grossly disproportionate (as where a short life is assigned to one asset and a long life to another even though the expected periods of use are the same), the taxpayer's allocation of depreciation to particular assets or depreciation accounts may be adjusted. For example, the taxpayer's allocation may be adjusted for purposes of determining adjusted basis under section 1016(a) or in allocating depreciation to the 50-percent limitation on percentage depletion provided by section 613(a). See paragraph (d) of this section for rules regarding the use of individual asset lives for purposes of classifying retirements as normal or abnormal.

(iv) *Regrouping depreciation accounts.*—Without the consent of the Commissioner, the taxpayer may for any taxable year for which he elects to apply this section to an asset guideline class, regroup his accounts for that and all succeeding taxable years to conform to the asset guideline class. Other changes in accounting, including a change from item accounts to multiple-asset accounting, may be made with the consent of the Commissioner. No depreciation accounts for which the straight line or sum of the years-digits method of depreciation is adopted may be combined under this section which would not be permitted to be combined under part III of Revenue Procedure 65–13, as in effect on January 1, 1971. Accordingly, whether or not the taxpayer adopted the guideline system of Revenue Procedure 62–21 for a taxable year to which part III of Revenue Procedure 65–13 is applicable, the depreciation allowance for any taxable year of election under this section may not exceed that amount which would have been allowed for such year if the taxpayer had used item accounts or year of acquisition accounts. Thus, for example, if a calendar year taxpayer acquired a $90 asset on the first day of each year from 1966 through 1970, placed such assets in a single multiple asset account, adopted the sum of the years-digits method of depreciation and used a 5-year depreciable life for such assets, and in 1971 uses the 5-year class life determined under paragraph (b) of this section, the depreciation allowance for such assets in 1971 under this section may not exceed $60, that is, the amount which would be allowed if the taxpayer had used year of acquisition accounts for the assets for the years 1966 through 1970.

For purposes of this subparagraph, a taxpayer's depreciation accounts conform to the asset guideline class if each depreciation account includes only assets of the same asset guideline class.

(v) *Method of depreciation.*—The same method of depreciation must be applied to all property in a single depreciation account. The method of depreciation is subject to the limitations of section 167 (c) and (j). Except as otherwise provided in this subdivision, the taxpayer must apply a method of depreciation described in section 167(b)(1), (2), or (3) for qualified property to which the taxpayer elects to apply this section. A method of depreciation permitted under section 167(b)(4) may be used under this section if the method was used by the taxpayer with respect to the property for his last taxable year ending before January 1, 1971, the method is expressed in terms of years, the taxpayer establishes to the satisfaction of the Commissioner that the method is both a reasonable and consistent method, and if the taxpayer applies paragraph (b)(2) of this section (relating to class lives in special situations) to determine a class life, that the method of determining such class life is consistent with the principles of Revenue Procedure 62–21 as applied to such a method. If the taxpayer has applied a method of depreciation with respect to the property which is not described in section 167(b) (1), (2), (3), or (4) (as permitted under the preceding sentence), he must change under this section to a method of depreciation de-

scribed in section 167(b) (1), (2), or (3) for the first taxable year for which an election is made under this section. Other changes in depreciation method may be made with the consent of the Commissioner (see sec. 446 and the regulations thereunder). (See also sec. 167 (e).)

(vi) *Salvage value.* In applying the method of depreciation adopted by the taxpayer, the annual allowance for depreciation is determined without adjustment for the salvage value of the property, except that no depreciation account may be depreciated below a reasonable salvage value for the account. See paragraph (c) of this section for definition and treatment of salvage value.

(vii) *Reasonable allowance when depreciation exceeds amount based on class life.* In the event that the total amount of depreciation claimed by the taxpayer on his income tax return, in a claim for refund, or otherwise, for an asset guideline class with respect to which an election is made under this section for the taxable year, exceeds the maximum amount permitted under subdivision (ii) (*a*) of this subparagraph—

(*a*) If the excess is established to the satisfaction of the Commissioner to be the result of a good faith mistake by the taxpayer in determining the maximum amount permitted under subdivision (ii) (*a*) of this subparagraph, the taxpayer's election to apply this section will be treated as valid and only such excess will be disallowed, and

(*b*) In all other cases, the taxpayer's election to apply this section to the asset guideline class for the taxable year is invalid and the reasonable allowance for depreciation will be determined without regard to this section. (See § 1.167(a)-1 (b) for rules regarding the estimated useful life of property.)

(b) *Determination of class lives*—(1) *Class lives in general.* The class life determined under this paragraph (without regard to any range or variance permitted with respect to class lives under § 1.167(a)-11) will be applied for purposes of determining whether the allowance for depreciation for qualified property included in an election under this section is subject to adjustment. The taxpayer is not required to use the class life determined under this paragraph for purposes of determining the allowance for depreciation. Except as provided in subparagraph (2) of this paragraph, the class life of qualified property to which the taxpayer elects to apply this section is the shorter of—

(i) The asset guideline period for the asset guideline class as set forth in Revenue Procedure 72-10 as in effect on March 1, 1972 (applied without regard to any special provision therein with respect to property predominantly used outside the United States), or

(ii) The asset guideline period for the asset guideline class as set forth in any supplement or revision of Revenue Procedure 72-10, but only if and to the extent by express reference in such supplement or revision made applicable for the purpose of changing the asset guideline period or classification of qualified property to which this section applies.

See paragraph (e) (3) (iii) of this section for requirement that the election for the taxable year specify the class life for each asset guideline class. Generally, the applicable asset guideline class and asset guideline period for qualified property to which the taxpayer has elected to apply this section will not be changed for the taxable year of election to reflect any supplement or revision thereof after the taxable year. However, if expressly provided in such a supplement or revision, the taxpayer may, at his option in the manner specified therein, apply the revised or supplemented asset guideline classes or periods to such property for such taxable year and succeeding taxable years. The principles of this subparagraph may be illustrated by the following example:

Example. (i) Corporation X, a calendar year taxpayer, has assets in asset guideline class 20.4 of Revenue Procedure 72-10 which were placed in service by corporation X in 1967, 1968, and 1970. Corporation X also has assets in asset guideline class 22.1 of Revenue Procedure 72-10 which were placed in service at various times prior to 1971. Corporation X has no other qualified property. Corporation X elects to apply this section for 1971 to both classes. Assume that the class lives are determined under this subparagraph and not under subparagraph (2) of this paragraph.

(ii) The class lives for asset guideline classes 20.4 and 22.1 are their respective asset guideline periods of 12 years and 9 years in Revenue Procedure 72-10.

(iii) Accordingly, in the election for the taxable year, in accordance with paragraph (e) (3) (iii) of this section, corporation X specifies a class life of 12 years for asset guideline class 20.4 and a class life of 9 years for asset guideline class 22.1.

(2) *Class lives in special situations.*—Notwithstanding subparagraph (1) of this paragraph, for the purposes of this section the class life for the asset guideline class determined under this subparagraph shall be used if such class life is shorter than the class life determined under subparagraph (1) of this paragraph. If property described in paragraph (a) (2) (iii) of this section in an asset guideline class is acquired by the taxpayer in a transaction to which section 381(a) applies, for purposes of this subparagraph such property shall be segregated from other property in the class and treated as in a separate asset guideline class, and the class life for that asset guideline class under this subparagraph shall be the shortest class life the transferor was entitled to use under this section for such property on the date of such transfer. In all other cases, the class life for the asset guideline class for purposes of this subparagraph shall be the shortest class life (within the meaning of sec. 4, part II, of Revenue Procedure 62-21) which can be justified by application of §§ 3.02(a), 3.03(a), or 3.05, part II, of Revenue Procedure 62-21 (other than the portion of such § 3.05 dealing with justification of a class life by reference to facts and circumstances) for the taxpayer's last taxable year ending prior to January 1, 1971.

A class life justified by application of section 3.03(a), Part II, of Revenue Procedure 62-21 shall not be shorter than can be justified under the Adjustment Table for Class Lives in Part III of such Revenue Procedure. For purposes of this subparagraph and paragraph (f) (1) (iii) of this section, the reserve ratio test is met only if the taxpayer's reserve ratio does not exceed the upper limit of the appropriate reserve ratio range or in the alternative during the transitional period there provided does not exceed the appropriate "transitional upper limit" in section 3, Part II, of Revenue Procedure 65-13. References to Revenue Procedure 62-21 include all morifications, amendments, and supplements thereto as of January 1, 1971. The guideline form of the reserve ratio test, as described in Revenue Procedure 65-13, may be applied for purposes of this subparagraph in a manner consistent with the rules contained in section 7, Part II, of Revenue Procedure 65-13 and sections 3.02, 3.03, and 3.05, Part II, of Revenue Procedure 62-21. The principles of this subparagraph may be illustrated by the following examples:

Example (*1*). Corporation X, a calendar year taxpayer, has all its assets in asset guideline class 20.4 of Revenue Procedure 72-10 which were placed in service by corporation X prior to 1971. Corporation X elects to apply this section for 1971. For taxable years 1967 through 1969, corporation X had used a class life (within the meaning of section 4, Part II, of Revenue Procedure 62-21) for asset guideline class 20.4 of 12 years. The asset guideline period in Revenue Procedure 72-10 in effect for 1971 is also 12 years. Assume that for 1969 corporation X's reserve ratio was below the appropriate reserve ratio lower limit. However, corporation X could not justify a class life shorter than the asset guideline period of 12 years for 1970 since corporation X had not used the 12-year class life for a period at least equal to one-half of 12 years. (See section 3.03(a), Part II, of Revenue Procedure 62-21.) Accordingly, the class life for asset guideline class 20.4 in 1971 is the asset guideline period of 12 years in accordance with subparagraph (1) of this paragraph.

Example (*2*). The facts are the same as in example (1) except that corporation X had used a class life of 10 years for guideline class 20.4 since 1967. Corporation X had not used the class life of 10 years for a period at least equal to one-half of 10 years. However, in 1968 corporation X's 10-year class life was accepted on audit by the Internal Revenue Service and corporation X met the reserve ratio test in 1970 for guideline class 20.4 using a test life of 10 years. (See section 3.05, Part II, of Revenue Procedure 62-21.) Accordingly, the class life of 10 years is justified for 1970 and the class life for 1971 is 10 years in accordance with this subparagraph. If the taxpayer's class life had not been audited and accepted for 1968, and in the absence of other circumstances, the taxpayer could not justify a class life shorter than the asset guideline period of 12 years since it had not used the 10-year class life for a period at least equal to one-half of 10 years. (See section 3.02, Part II, of Revenue Procedure 62-21.)

Example (*3*). Corporation Y, a calendar year taxpayer, has all its assets in asset guideline class 13.3 of Revenue Procedure 72-10

which were placed in service from 1960 through 1970. Corporation Y elects to apply this section for 1971. The asset guideline period in Revenue Procedure 72–10 in effect for 1971 is 16 years. Since 1963 corporation Y had used a class life of 16 years for asset guideline 13.3. At the end of 1969 corporation Y's reserve ratio for guideline class 13.3 was 36 percent. With a growth rate of 8 percent and a test life of 16 years the appropriate reserve ratio lower limit was 37 percent. Corporation Y's reserve ratio of 36 percent was below the lower limit of the appropriate reserve ratio range. Corporation Y had used the 16-year class life for at least eight years. A class life of 13.5 years for 1970 was justified by application of section 3.03(a), Part II, of Revenue Procedure 62–21 and the Adjustment Table for Class Lives in Part III, of Revenue Procedure 62–21. The class life for 1971 is 13.5 years in accordance with this subparagraph.

(3) *Classification of property*—(i) *In general.* Property to which this section applies shall be included in the asset guideline class for the activity in which the property is primarily used in the taxable year of election. See paragraph (d)(5) of this section for rule regarding the classification of leased property.

(ii) *Insubstantial activity.* The provisions of Revenue Produce 62–21 with respect to classification of assets used in an activity which is insubstantial may be applied under this section.

(iii) *Special rule for certain public utilities.* An electric or gas utility which in accordance with Revenue Procedure 64–21 used a composite guideline class basis for applying Revenue Procedure 62–21 for its last taxable year prior to January 1, 1971, may apply Revenue Procedure 72–10 and this section on the basis of such composite asset guideline class determined as provided in Revenue Procedure 64–21. For the purposes of this section all property in the composite guideline class shall be treated as included in a single asset guideline class.

(c) *Salvage value.*—(1) *In general.*—(i) *Definition of gross salvage value.*—"Gross salvage" value is the amount (determined at or as of the time of acquisition but without regard to the application of Revenue Procedure 62–21) which is estimated will be realized upon a sale or other disposition of qualified property when it is no longer useful in the taxpayer's trade or business or in the production of his income and is to be retired from service, without reduction for the cost of removal, dismantling, demolition, or similar operations. "Net salvage" is gross salvage reduced by the cost of removal, dismantling, demolition, or similar operations. If a taxpayer customarily sells or otherwise disposes of property at a time when such property is still in good operating condition, the gross salvage value of such property is the amount expected to be realized upon such sale or disposition, and under certain circumstances, as where such property is customarily sold at a time when it is still relatively new, the gross salvage value may constitute a relatively large proportion of the unadjusted basis of such property.

(ii) *Definition of salvage value.* "Salvage value" for purposes of this section means gross or net salvage value less the amount, if any, by which reduced by application of section 167(f). Generally, as provided in section 167(f), a taxpayer may reduce the gross or net salvage value for an account by an amount which does not exceed 10 percent of the unadjusted basis of the personal property (as defined in section 167(f)(2)) in the account.

(2) *Estimation of salvage value*—(i) *In general.*—For the first taxable year for which he elects to apply this section, the taxpayer must (in accordance with paragraph (e)(3)(iv)(c) of this section) establish salvage value for all qualified property to which the election applies. The taxpayer may (in accordance with subparagraph (1) of this paragraph) determine either gross or net salvage, but an election under this section does not constitute permission to change the manner of estimating salvage. Permission to change the manner of estimating salvage must be obtained by filing form 3115 with the Commissioner of Internal Revenue, Washington, D.C. 20224, within the time otherwise permitted for the taxable year or before September 6, 1973. Salvage value in succeeding taxable years of election will be determined by adjustments of such initial salvage value for the account, as retirements occur. This salvage value established by the taxpayer for the first taxable year of election will not be redetermined merely as a result of fluctuations in price levels or as a result of other circumstances occurring after the close of such taxable year. See paragraph (e)(3)(iv) of this section for requirements that the taxpayer specify in his election the aggregate amount of salvage value for an asset guideline class and that the taxpayer maintain records reasonably sufficient to identify the salvage value established for each depreciation account in the class.

(ii) *Salvage as limitation on depreciation.* In no case may an account be depreciated under this section below a reasonable salvage value, after taking into account any reduction in gross or net salvage value permitted by section 167(f). For example, if the salvage value of an account for 1971 is $75, the unadjusted basis of the account is $500, and the depreciation reserve is $425, no depreciation is allowable for 1971.

(iii) *Special rule for first taxable year.*—If for a taxable year ending prior to January 1, 1971, the taxpayer had adopted Revenue Procedure 62–21 prior to January 12, 1971 (see paragraph (f)(2) of this section), no adjustment in the amount of depreciation allowable for any taxable year ending prior to January 1, 1971, shall be made solely by reason of establishing salvage value under this paragraph for any taxable year ending after December 31, 1970. The principles of this subdivision may be illustrated by the following example:

Example.—Taxpayer A had adopted Revenue Procedure 62–21 prior to January 12, 1971, for taxable years prior to 1971. Taxpayer A had not taken into account any salvage value for account No. 1 which is one of four depreciation accounts A has in the class. The reserve ratio test has been met for all years prior to 1971 and in accordance with Revenue Procedure 62–21 no adjustments in depreciable lives or salvage values were made. At the end of A's taxable year 1970, the unadjusted basis of account No. 1 was $10,000 and the reserve for depreciation was $9,800. Pursuant to this paragraph, A establishes a salvage value of $400 for account No. 1 (determined at or as of the time of acquisition). This salvage value is determined to be correct. No depreciation is allowable for account No. 1 in 1971. No depreciation is disallowed for any taxable year prior to 1971, solely by reason of establishing salvage value under this paragraph.

(3) *Limitation on adjustment of reasonable salvage value.* The salvage value established by the taxpayer for a depreciation account will not be redetermined if it is reasonable. Since the determination of salvage value is a matter of estimation, minimal adjustments will not be made. The salvage value established by the taxpayer will be deemed to be reasonable unless there is sufficient basis for a determination of an amount of salvage value for the account which exceeds the salvage value established by the taxpayer for the account by an amount greater than 10 percent of the unadjusted basis of the account at the close of such taxable year. If the salvage value established by the taxpayer for the account is not within the 10-percent range or if the taxpayer follows the practice of understating his estimates of salvage to take advantage of this subdivision, and if there is a determination of an amount of salvage value for the account for the taxable year which exceeds the salvage value established by the taxpayer for the account for such taxable year, an adjustment will be made by increasing the salvage value established by the taxpayer for the account by an amount equal to the difference between the salvage value as determined and the salvage value established by the taxpayer for the account. For the purposes of this subdivision, a determination of salvage value shall include all determinations at all levels of audit and appellate proceedings, and as well as all final determinations within the meaning of section 1313(a)(1). This subparagraph shall apply to each such determination.

(4) *Examples.* The principles of this paragraph may be illustrated by the following examples in which it is assumed that the taxpayer has established salvage value in accordance with this paragraph and has not followed a practice of understating his estimates of salvage value:

Example (1).—Taxpayer B elects to apply this section for 1971. Assets Y and Z are the only assets in a multiple asset account of 1967, the year in which the assets were acquired. The unadjusted basis of asset Y is $50,000 and the unadjusted basis of asset Z is $30,000. B estimated a gross salvage value of $55,000 at the time of acquisition. The property qualified under section 167(f)(2) and B reduced the amount of salvage taken into account by $8,000 (that is, 10 percent of $80,000, under sec. 167(f)). Thus, in accordance with this paragraph and paragraph (e)(3)(iv)(c) of this section, B establishes a salvage value of $47,000 for the account for 1971. Assume

that there is not sufficient basis for determining a salvage value for the account greater $52,000 (that is $60,000 minus the $8,000 reduction under sec. 167(f)). Since the salvage value of $47,000 established by B for the account is within the 10 percent range, it is reasonable. Salvage for the account will not be redetermined.

Example (2). The facts are the same as in example (1) except that B estimated a gross salvage value of $50,000 and establishes a salvage value of $42,000 for the account (that is, $50,000 minus the $8,000 reduction under section 167(f)). There is sufficient basis for determining an amount of salvage value greater than $50,000 (that is, $58,000 minus the $8,000 reduction under section 167(f)). The salvage value of $42,000 established by B for the account can be redetermined without regard to the limitation in subparagraph (3) of this paragraph, since it is not within the 10 percent range. Upon audit of B's tax return for 1971 (a year in which the redetermination would affect the amount of depreciation allowable for the account), salvage value is determined to be $52,000 after taking into account the reduction under section 167(f). Salvage value for the account will be adjusted to $52,000.

Example (3). The facts are the same as in example (1) except that upon audit of B's tax return for 1971 the examining officer determines the salvage value to be $58,000 (that is, $66,000 minus the $8,000 reduction under section 167(f)), and proposes to adjust salvage value for the account to $58,000 which will result in disallowing an amount of depreciation for the taxable year. B does not agree with the finding of the examining officer. After receipt of a "30-day letter," B waives a district conference and initiates proceedings before the Appellate Division. In consideration of the case by the Appellate Division it is concluded that there is not sufficient basis for determining an amount of salvage value for the account in excess of $55,000 (that is, $63,000 minus the $8,000 reduction under section 167(f)). Since the salvage value of $47,000 established by B for the account is within the 10 percent range, it is reasonable. Salvage value for the account will not be redetermined.

Example (4).—For 1971, taxpayer C elects to apply this section to factory building X which is in an item account of 1965, the year in which the building was acquired. The unadjusted basis of factory building X is $90,000. C estimated a gross salvage value for the account of $10,000. The property did not qualify under section 167(f)(2). Thus, C establishes a salvage value of $10,000 for the account for 1971. Assume that there is not sufficient basis for determining a salvage value for the account greater than $14,000. Since the salvage value of $10,000 established by C for the account is within the 10-percent range, it is reasonable. Salvage value for the account will not be redetermined.

(d) *Accounting for qualified property*—(1) *In general.* Qualified property for which the taxpayer elects to apply this section may be accounted for in any number of item or multiple asset accounts.

(2) *Retirements of qualified property*—(i) *In general.* The provisions of this subparagraph and § 1.167(a)-8 apply to retirements of qualified property to which the taxpayer elects to apply this section for the taxable year. See subdivision (iii) of this subparagraph for special rule for normal retirements.

(ii) *Adjusted basis of assets retired.* In the case of a taxpayer who depreciates qualified property in a multiple-asset account conforming to the asset guideline class at a rate based on the class life in accordance with paragraph (a)(5)(ii)(*a*) of this section, § 1.167(a)-8(c) (relating to basis of assets retired) shall be applied by assuming that the class life is the average expected useful life of the assets in the account. See § 1.167(a)-8, generally, for the basis of assets retired.

(iii) *Definition of normal retirements.* Notwithstanding § 1.167(a)-8(b), the determination whether a retirement of qualified property is normal or abnormal shall be made in light of all the facts and circumstances, primarily with reference to the expected period of use of the asset in the taxpayer's business without regard to paragraph (a)(5)(ii) of this section. A retirement is not abnormal unless the taxpayer can show that the withdrawal of the asset was not due to a cause which would customarily be contemplated (in light of the taxpayer's practice and experience) in setting a depreciation rate for the assets without regard to paragraph (a)(5)(ii) of this section. Thus, for example, a retirement is normal if made within the range of years which would customarily be taken into account in setting such depreciation rate and if the asset has reached a condition at which, in the normal course of events, the taxpayer customarily retires similar assets from use in his business. A retirement may be abnormal if the asset is withdrawn at an earlier time or under other circumstances, as, for example, when the asset has been damaged by casualty or has lost its usefulness suddenly as the result of extraordinary obsolescence.

(3) *Special rules*—(i) *In general.* The provisions of this subparagraph shall apply to qualified property in a taxable year for which an election to apply this section is made.

(ii) *Repairs.* For the purpose of sections 162 and 263 and the regulations thereunder, whether an expenditure prolongs the life of an asset shall be determined by reference to the expected period of use of the asset in the taxpayer's business without regard to paragraph (a)(5)(ii) of this section.

(iii) *Sale and lease.* For the purpose of comparison with the term of a lease of such property, the remaining life of qualified property shall be determined by reference to the expected period of use of the asset in the taxpayer's business without regard to paragraph (a)(5)(ii) of this section.

(4) *Expected period of use.* For the purposes of subparagraphs (2) and (3) of this paragraph, the determination of the expected period of use of an asset shall be made in light of all the facts and circumstances. The expected period of use of a particular asset will not necessarily coincide with the class life used for depreciation (or with the individual asset life for depreciation under the alternative method in paragraph (a)(5)(ii)(*b*) of this section for applying the class life). Thus, for example, if the question is whether an asset has been leased for a period less than, equal to or greater than its remaining life, the determination shall be based on the remaining expected period of use of the individual asset without regard to the fact that the asset is depreciated at a rate based on the class life in accordance with paragraph (a)(5)(ii)(*a*) of this section.

(5) *Leased property.* In the case of a lessor of qualified property, unless there is an asset guideline class in effect for such lessors, the asset guideline class for such property shall be determined by reference to the activity in which such property is primarily used by the lessee. See paragraph (b)(3) of this section for general rule for classification of qualified property according to primary use. However, in the case of an asset guideline class based upon the type of property (such as trucks or railroad cars), as distinguished from the activity in which used, the property shall be classified without regard to the activity of the lessee.

(e) *Election under this section*—(1) *Consent to change in method of accounting.* An election to apply this section for a taxable year ending after December 31, 1970, is a method of accounting but the consent of the Commissioner will be deemed granted to make an annual election.

(2) *Time and manner of election.* An election to apply this section to qualified property for a taxable year shall be made with the income tax return for the taxable year. If the taxpayer does not file a timely return (taking into account extensions of time for filing) for the taxable year, the election shall be filed at the time the taxpayer files his first return for the taxable year. The election may be made with an amended return only if such amended return is filed no later than the later of (*a*) the time prescribed by law (including extensions thereof) for filing the return for the taxable year or (*b*) November 5, 1973. See subparagraph (3) of this paragraph for information required.

(3) *Information required.* The election to apply this section for a taxable year must specify:

(i) That the taxpayer makes such election and consents to, and agrees to apply, all the provisions of this section;

(ii) Each asset guideline class for which the taxpayer makes the election;

(iii) The class life for each asset guideline class for which the taxpayer makes an election and whether the class life is determined under paragraph (b)(1) or (2) of this section;

(iv) For each asset guideline class, as of the end of the taxable year of election, (*a*) the total unadjusted basis of all qualified property, (*b*) the aggregate of the reserves for depreciation of all accounts in the asset guideline class, and (*c*) the aggregate of the salvage value established for all accounts in the asset guideline class;

(v) Whether the taxpayer elects to apply Revenue Procedure 72-10 on a composite asset guideline class basis in accordance with paragraph (b)(3)(iii) of this section; and

(vi) Such other information as may reasonably be required, including all or

any part of the type of information specified in paragraph (f)(4) of § 1.167(a)-11.

A taxpayer who makes an election to apply this section for an asset guideline class shall maintain books and records reasonably sufficient to identify the unadjusted basis, reserve for depreciation and salvage value established for each depreciation account in the asset guideline class. Form 5006 will be provided for making the election and submission of the information required. An election may be made and the information submitted only in accordance with such forms. An election will not otherwise be rendered invalid under this paragraph so long as there is substantial compliance, in good faith, with the requirements of this paragraph.

(f) *Depreciation for taxable years ending before January 1, 1971*—(1) *Adoption of Revenue Procedure 62-21*—(i) *In general.* Except as provided in subdivision (ii) of this subparagraph, a taxpayer may elect to be examined under the provisions of Revenue Procedure 62-21 for a taxable year ending before January 1, 1971, only in accordance with the rules of this paragraph. The election must specify:

(*a*) That the taxpayer makes such election and consents to, and agrees to apply, all the provisions of this paragraph;

(*b*) Each guideline class and taxable year for which the taxpayer elects to be examined under Revenue Procedure 62-21;

(*c*) The class life claimed for each such guideline class;

(*d*) The class life and the total amount of the depreciation for the guideline class claimed on the last income tax return for such taxable year filed prior to January 12, 1971 (or in case no income tax return was filed prior to January 12, 1971, on the first income tax return filed for such taxable year);

(*e*) The class life claimed and the total amount of depreciation for the guideline class under the election to apply Revenue Procedure 62-21, in accordance with this paragraph, for the taxable year; and

(*f*) If the class life or total amount of depreciation for the guideline class is different in (*d*) and (*e*) of this subdivision, a reasonable description of the computation of the class life in (*e*) of this subdivision, the amount of difference in tax liability resulting therefrom, and the amount of any refund or reduction in any deficiency in tax. The election shall be made in an amended tax return or claim for refund (or by a supplement to the tax return or claim) for the taxable year, and if the class life or total amount of depreciation for the guideline class is different in accordance with (*f*) of this subdivision, such difference shall be reflected in the amended tax return or claim for refund. Forms may be provided for making the election and submission of the information. In the case of an election made after issuance of such forms and more than 30 days after publication of notice thereof in the Internal Revenue Bulletin, the election may be made and the information submitted only in accordance with such forms. An election will not otherwise be invalid under this paragraph so long as there is substantial compliance, in good faith, with the requirements of this paragraph.

(ii) *Special rule.* The provisions of this subparagraph shall not apply to a guideline class in any taxable year for which the taxpayer has prior to January 12, 1971, adopted Revenue Procedure 62-21 for such class. See subparagraph (2) of this paragraph for determination of adoption of Revenue Procedure 62-21 prior to January 12, 1971.

(iii) *Justification of class life claimed and limitations on refunds.*—If the taxpayer elects for a taxable year to be examined under the provisions of Revenue Procedure 62-21 in accordance with subdivision (i) of this subparagraph, any of the provisions of Revenue Procedure 62-21 may be applied to justify a class life claimed on the income tax return filed for such year or to offset an increase in tax liability for such year. Unless it meets the reserve ratio test, no class life will be accepted on audit which (after all other adjustments in tax liability for such year) results in a reduction (or further reduction) in the amount of tax liability shown on the income tax return (specified in subdivision (i)(*d*) of this subparagraph) for such taxable year, or results in an amount of loss carryback or carryover to any taxable year, but if it is justified under Revenue Procedure 62-21 and meets the reserve ratio test, a class life will be accepted on audit without regard to the foregoing limitations and, for example, may produce a refund or credit against tax. For example, if a class life of 9 years is otherwise justified under Revenue Procedure 62-21 for 1969, but the taxpayer does not meet the reserve ratio test for 1969 using a test life of 9 years, a class life of 9 years (or any class life justified under Revenue Procedure 62-21) will be accepted on audit under Revenue Procedure 62-21 pursuant to an election in accordance with this paragraph provided it does not result in the reduction or further reduction in tax liability or in an amount of loss carryback or carryover as described in the preceding sentence. On the other hand, for example, if a class life of 10 years is justified under Revenue Procedure 62-21 for 1969 and the taxpayer meets the reserve ratio test for 1969 using a test life of 10 years, a class life of 10 years will be accepted on audit under Revenue Procedure 62-21 pursuant to an election in accordance with this paragraph even though it results in a reduction or further reduction in tax liability or in an amount of loss carryback or carryover as described above and produces a refund of tax. For purposes of this section, the term "audit" includes examination of claims for refund or credit against tax.

(iv) *Definitions.*—For purposes of this paragraph, the determination whether the reserve ratio test is met shall be made in accordance with that portion of paragraph (b)(2) of this section which is by express reference therein made applicable to this paragraph. In addition, the guideline form of the reserve ratio test, as described in Revenue Procedure 65-13, may be applied. * * * For purposes of this paragraph, references to Revenue Procedure 62-21 include all modifications, amendments, and supplements thereto as of January 11, 1971. The terms "class life" and "guideline class" have the same meaning as in Revenue Procedure 62-21.

(2) *Determination whether Revenue Procedure 62-21 adopted prior to January 12, 1971*—(i) *In general.* For the purposes of this paragraph, a taxpayer will be treated as having adopted prior to January 12, 1971, Revenue Procedure 62-21 for a guideline class for a taxable year ending before January 1, 1971, only if—

(*a*) For the guideline class and taxable year, the taxpayer adopted Revenue Procedure 62-21 by expressly so indicating on the income tax return filed for such taxable year prior to January 12, 1971;

(*b*) For the guideline class and taxable year, the taxpayer adopted Revenue Procedure 62-21 prior to January 12, 1971, by expressly so indicating in a proceeding before the Internal Revenue Service (such as upon examination of the income tax return for such taxable year) and there is reasonable evidence to that effect; or

(*c*) There is other reasonable evidence that prior to January 12, 1971, the taxpayer adopted Revenue Procedure 62-21 for the guideline class and taxable year.

If not treated under (*b*) or (*c*) of this subdivision as having done so for the last taxable year ending before January 1, 1971, and if the taxpayer files his first income tax return for such taxable year after January 11, 1971, the taxpayer will be treated as having adopted Revenue Procedure 62-21 prior to January 12, 1971, for a guideline class for such taxable year if he expressly so indicated on that return, or is treated under this subparagraph as having adopted Revenue Procedure 62-21 prior to January 12, 1971, for that guideline class for the immediately preceding taxable year.

(ii) *Examples.* The principles of this subparagraph may be illustrated by the following examples:

Example (*1*). Taxpayer A, an individual who uses the calendar year as his taxable year, has property in Group Three, Class 16(a), of Revenue Procedure 62-21. On A's income tax return for 1968, filed prior to January 12, 1971, he adopted Revenue Procedure 62-21 for the guideline class by so indicating under "Summary of Depreciation" in the appropriate schedule of Form 1040 for 1968. Under subdivision (i)(*a*) of this subparagraph, A is treated as having adopted Revenue Procedure 62-21 for the guideline class for 1968 prior to January 12, 1971.

Example (*2*). Taxpayer B, an individual who uses the calendar year as his taxable year, has property in Group Two, Class 5, of Revenue Procedure 62-21. B filed timely income tax returns for 1966 through 1968 but did not adopt Revenue Procedures 62-21 on any of such returns. In 1969 upon audit of B's taxable years 1966 through 1968, B exercised his option to be examined under the provisions of Revenue Procedure 62-21. The

Revenue Agent's report shows that B was examined under Revenue Procedure 62-21 for taxable years 1966 through 1968. B will be treated under subdivision (ii) (*b*) of this subparagraph as having adopted Revenue Procedure 62-21 for such years prior to January 12, 1971.

Example (3). The facts are the same as in example (2) except that B did not upon examination by the Revenue Agent in 1969 exercise his option to be examined under Revenue Procedure 62-21. B has six accounts in the guideline class, Nos. 1 through 6. The Revenue Agent proposed to lengthen the depreciable lives on accounts Nos. 2 and 3 from 8 years to 12 years. In proceedings before the Appellate Division in 1970, B exercised his option to be examined under the provisions of Revenue Procedure 62-21. This is shown by correspondence between B and the Appellate Conferee as well as by other documents in the case before the Appellate Division. The case was settled on that basis before the Appellate Division without adjustment of the depreciable lives for B's accounts Nos. 2 and 3. B will be treated under subdivision (ii) (*b*) of this subparagraph as having adopted Revenue Procedure 62-21 for taxable years 1966 through 1968 prior to January 12, 1971.

Example (4). Corporation X uses the calendar year as its taxable year and has assets in Group Two, Class 5, of Revenue Procedure 62-21. Beginning in 1964, corporation X used the guideline life of 10 years as the depreciable life for all assets in the guideline class. In 1967, corporation X's taxable years 1964 through 1966 were examined and corporation X exercised its option to be examined under the provisions of Revenue Procedure 62-21. Corporation X did not adopt Revenue Procedure 62-21 on any of its income tax returns, for the years 1964 through 1970. Corporation X has not been examined since 1967, but has continued to use the guideline life of 10 years for all property in the guideline class including additions since 1966. Corporation X will be treated under subdivision (ii) (*c*) and (*d*) of this subparagraph as having adopted Revenue Procedure 62-21 prior to January 12, 1971, for taxable years 1964 through 1970.

Example (5). Corporation Y uses the calendar year as its taxable year and has asset in Group Two, Class 5, of Revenue Procedure 62-21. Since 1964, corporation Y has used various depreciable lives, based on the facts and circumstances, for different accounts in the guideline class. Corporation Y was examined in 1968 for taxable years 1965 through 1967. Corporation Y was also examined in 1970 for taxable years 1968 and 1969. Corporation Y did not exercise its option to be examined under the provisions of Revenue Procedure 62-21. Corporation Y has not adopted Revenue Procedure 62-21 on any income tax return. For taxable years 1964 through 1970, corporation Y's class life (within the meaning of section 4, Part II, of Revenue Procedure 62-21) was between 12 and 14 years. In August of 1971, corporation Y filed amended income tax returns for 1968 and 1969, and an income tax return for 1970, using a depreciable life of 10 years (equal to the guideline life) for all assets in the guideline class. Corporation Y will not be treated as having adopted Revenue Procedure 62-21 prior to January 12, 1971.

Example (6).—Corporation Z uses the calendar year as its taxable year and has assets in group 2, class 5, of Revenue Procedure 62-21. Corporation Z adopted Revenue Procedure 62-21 for this guideline class by expressly so indicating on its tax return for 1966, which was filed before January 12, 1971. Corporation Z computed its allowable depreciation for 1966 as if it adopted Revenue Procedure 62-21 for this guideline class for its taxable years 1962 through 1965, although it had earlier filed its tax returns for those years without regard to Revenue Procedure 62-21. The depreciation thus claimed in 1966 was less than what would have been allowable if corporation Z first adopted Revenue Procedure 62-21 in 1966. This was the result of certain accounts becoming fully depreciated through use of Revenue Procedure 62-21 in computing depreciation for 1962 through 1965. In addition, in deferred tax accounting procedures employed before January 12, 1971, for financial reporting purposes, corporation Z calculated its tax deferrals on the basis that it had adopted Revenue Procedure 62-21 for the years 1962 through 1965. Corporation Z will be treated under subdivision (i) (*c*) of this subparagraph as having adopted Revenue Procedure 62-21 for taxable years 1962 through 1965 prior to January 12, 1971.

[FR Doc.73-11322 Filed 6-6-73;8:45 am]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

APPORTIONMENTS

On page 10280 of the FEDERAL REGISTER of April 26, 1973, there was published a notice of proposed regulatory development to amend § 3.461 to provide a specific amount to be added to the widow's basic rate of dependency and indemnity compensation for each child under 18 years of age and eliminate the limitation on the amount payable. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulation.

No written objections have been received and the proposed regulation is hereby adopted without change and is set forth below.

Effective date.—This VA regulation is effective December 1, 1969.

Approved June 1, 1973.

By direction of the Administrator.

[SEAL] RUFUS H. WILSON,
Associate Deputy Administrator.

To reflect the amendment of 38 U.S.C. 411(d), paragraph (b)(4)(ii) of § 3.461, part III, Code of Federal Regulations, is amended to read as follows:

§ 3.461 Dependency and indemnity compensation.

* * * * *

(b) *Rates payable.* * * *

(4) Where the widow has elected to receive dependency and indemnity compensation instead of death compensation and there is a child or children over the age of 18 years, the amount of dependency and indemnity compensation payable to or for such child will be included in determining the total dependency and indemnity compensation payable. The share of dependency and indemnity compensation for such child will be whichever is the greater.

* * * * *

(ii) The share which would have been payable as death compensation subject to the limitation that the total payable in the case will not exceed the total dependency and indemnity compensation which is authorized for a widow and a child or children, if any, under 18 years of age and a child who is a school child.

[FR Doc.73-11381 Filed 6-6-73;8:45 am]

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Miscellaneous Amendments

On pages 8523 through 8533 of the FEDERAL REGISTER of April 3, 1973, there was published a notice of proposed rulemaking to amend sections in part 21 to provide for increases in monthly rates and other liberalizations in the educational assistance and vocational rehabilitation programs. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations.

Three comments were received. The suggested changes in these comments generally would require changes in the law. Therefore, these proposed regulations were not amended based on the comments received and the proposed regulations are hereby adopted without change and are set forth below.

Effective date.—There are seven effective dates pertaining to these changes. The effective date for the rate changes is October 1, 1972 except for those veterans and eligible persons in training on the date of enactment, October 24, 1972, the effective date is the date of commencement of the current enrollment period, but not earlier than September 1, 1972. The effective date for correspondence program changes shall be, as to eligible wives and widows, January 1, 1973, and as to eligible veterans shall apply only to those enrollment agreements entered into after December 31, 1972. For all contracts signed before January 1, 1973, the $175 rate and current program provisions will remain in effect. The advance payment provision is effective August 1, 1973, unless the Administrator certifies an earlier date to Congress. The prepayment provision is effective November 1, 1972. The effective date for the apportionment provision is January 22, 1973, which is 90 days after the date of enactment. All other provisions covered in these regulatory changes are effective the date of enactment of the law, October 24, 1972.

(Catalog of Federal Domestic Assistance Program Nos.: 64.111, Veterans Educational Assistance (GI Bill); 64.116, Vocational Rehabilitation for Disabled Veterans (Vocational Rehabilitation); and 64.117, War Orphans and Widows Educational Assistance.)

Approved June 1, 1973.

By direction of the Administrator.

[SEAL] RUFUS H. WILSON,
Associate Deputy Administrator.

1. In § 21.130, paragraph (a) is amended to read as follows:

§ 21.130 Subsistence allowance.

(a) *Payments.* Each veteran under chapter 31 will be paid a subsistence allowance at the rates specified in § 21.133.

After the initial payment, subsequent payments for institutional courses will be made each month in advance. Final payment may be withheld until proof of continued enrollment is received and the account adjusted. Allowance will be paid while:

(1) He is in training status.

(2) He is in approved leave status. (A veteran will continue to be paid subsistence allowance even though he is hospitalized while in a leave status; receiving drill pay, flight pay or commuted rations as a member of a Reserve force; or while not on active duty, is receiving service department retirement or retainer pay.)

* * * * *

2. In § 21.131, paragraph (c) is amended to read as set forth below, and paragraph (e) is revoked.

§ 21.131 Commencing dates.

* * * * *

(c) *Correction of military records.* Where eligibility of a veteran arises as the result of correction of military records under 10 U.S.C. 1552 or a change, correction or modification of a discharge or dismissal pursuant to 10 U.S.C. 1553, or other corrective action by competent military authority, the commencing date of subsistence allowance which is otherwise payable will be the latest of the following dates:

(1) Date the application for change, correction or modification was filed with the service department, in either an original or a disallowed Veterans Administration application;

(2) Date of receipt of Veterans Administration application; or

(3) One year prior to reopening of disallowed claim.

* * * * *

(e) [Revoked]

3. In § 21.132, paragraph (g) is amended and paragraph (l) is revoked to read as follows:

§ 21.132 Reduction or discontinuance.

* * * * *

(g) *Reduction in rate of pursuit of course.* End of month in which reduction occurred.

* * * * *

(l) [Revoked]

4. Section 21.133 is revised to read as follows:

§ 21.133 Rates.

Subsistence allowance is payable at the following monthly rates:

Type of training	Monthly rate of subsistence allowance			
	No dependent	One dependent	Two dependents	More than two dependents
Institutional:				
Full time	$170	$211	$248	$18
¾ time	128	159	187	14
½ time	85	106	124	9
Institutional onfarm (IOF), apprentice or other onjob (OJT)[1] (full time only)	148	179	207	14
Combination (institutional and OJT) (Full time only):				
Institutional ¾ time or more	170	211	248	18
Institutional less than ¾ time	148	179	207	14
Cooperative (Full time only):				
Institutional full time	170	211	248	18
Business/industry full time	148	179	207	14

(38 U.S.C. 1504(b))

[1] For onjob training, subsistence allowance may not exceed the difference between the monthly training wage, exclusive of overtime, and the entrance journeyman wage for the veteran's objective.

5. Section 21.136 is revised to read as follows:

§ 21.136 Two-veteran cases; dependents.

The payment of additional subsistence allowance under § 21.133 to a veteran for a wife who is also a veteran and for a child will not bar the payment of additional subsistence allowance or educational assistance allowance under § 21.4136 to the wife for her husband and the same child.

6. Section 21.138 is added to read as follows:

§ 21.138 Advance payment.

(a) *Eligibility.* Subsistence allowance at the rates specified in § 21.133 shall be paid to an eligible veteran enrolled in an approved educational institution on a half-time or more basis.

(b) *Payment.* The amount of the payment is not to exceed the subsistence allowance for the month or fraction thereof in which the course will commence plus the subsistence allowance for the following month. Upon application and completion of arrangements for enrollment and if there is no evidence in the veteran's file showing that he is not eligible for such an advance, the check, made payable to the veteran, shall be mailed to the institution for delivery to the veteran upon registration. No delivery shall be made more than 30 days in advance of commencement of his program. Subsequent payments shall be made each month in advance subject to information furnished by the Veterans Administration staff or the training facility. Final payment may be withheld until certification is received that the veteran pursued his course and any necessary adjustments made.

(c) *Certification.* Payment will be authorized upon receipt of the proper certification which contains the following information:

(1) The veteran is eligible for educational benefits;

(2) He has been accepted by the institution or is eligible to continue his training there;

(3) He has notified the institution of his intention to attend that institution or to reenroll in it;

(4) The number of semester or clock hours to be pursued by the veteran; and

(5) The beginning and ending dates of the enrollment period.

7. In § 21.253(b), subparagraph (2) is amended to read as follows:

§ 21.253 Additional considerations incident to supervision.

* * * * *

(b) *Loans from vocational rehabilitation revolving fund.* * * *

(2) No advancement from the revolving fund of more than $200 shall be made at one time, and in no case shall the total outstanding advancements exceed $200. Advancements to be made in multiples of $10 shall be made only upon a showing of necessity and then only to the extent of such need. No interest will be charged on the funds advanced and no additional advancement shall be made to a veteran until the money previously advanced has been repaid in full, except in meritorious cases. (38 U.S.C. 1507; Public Law 92-540, 86 Stat. 1074)

* * * * *

8. Section 21.1030 is revised to read as follows:

§ 21.1030 Claims.

A specific claim in the form prescribed by the Administrator must be filed by the veteran in order for an educational assistance allowance to be paid. In addition servicemen must consult with their service education officer before applying for educational assistance. (38 U.S.C. 1671)

9. Immediately following § 21.1032, the cross references are amended to read as follows:

CROSS REFERENCES: Due process; procedural and appellate rights with regard to disability and death benefits and related relief. See § 3.103 of this chapter.

Computation of time limit. See § 3.110 of this chapter.

10. In § 21.1041, paragraphs (a)(4) and (d)(2) are amended as follows:

§ 21.1041 Periods of entitlement.

(a) *General.* * * *

(4) The 36-months limitation may be exceeded where an extension is authorized under paragraph (d) of this section, or where no charge against entitlement is made based on a course or courses pursued at a secondary school level, as provided in § 21.1045(a), pursued by a veteran under the program of special assistance for the educationally disadvantaged or by a serviceman under the predischarge education program, or pursued by a wife or widow under the special assistance for the educationally disadvantaged program.

* * * * *

(d) *Extension.* The period of entitlement, including the 36-months period, may be extended, but not beyond the 8-year delimiting date specified in § 21.1042:

* * * * *

(2) To the end of the course or for 12 weeks, whichever is less, in all other schools, when the period of entitlement

ends after more than half of the course has been completed. In a course consisting exclusively of flight training and in a course pursued exclusively by correspondence, the period of entitlement will be extended to the end of the course or for the total additional amount of instruction that $616 will provide, whichever is less. (38 U.S.C. 1661)

* * * * *

11. In § 21.1045(a), subparagraphs (2) and (4) are amended and subparagraph (5) is added; and paragraph (b) is amended so that the amended and added material reads as follows:

§ 21.1045 Entitlement charges.

(a) *Residence courses.* * * *

(2) *Flight training courses; Chapter 34.* A charge against the period of entitlement for a program consisting exclusively of flight training will be made on the basis of 1 month for each $220 which is paid to the veteran as an educational assistance allowance for such course. Where the computation results in a period of time other than a full month, or other than exactly three-fourths, one-half, or one-fourth fractional part of a month, the figure will be reduced to the next lower quarter. (38 U.S.C. 1677(b); Public Law 92-540, 86 Stat. 1074)

* * * * *

(4) *Chapter 35.* Except as provided in subparagraph (5) of this paragraph, charges against a period of entitlement will be made in terms of full months and fractions of a month for periods during which the eligible person is enrolled in an approved course. Where a program of education is pursued on a full-time basis the total elapsed time will be charged. Where a program is pursued on a three-fourths, one-half time or less than half-time basis, a proportionate rate of the elapsed time will be charged. Where the computation results in a period of time other than a full month, or other than exactly three-fourths, one-half, or one-fourth fractional part of a month, the figure will be reduced to the next lower quarter fraction of a month.

(5) *Secondary school training; Chapter 35 wife or widow.* No charge will be made against the entitlement of a wife or widow based on a course pursued under the circumstances outlined in § 21.4237, special assistance for the educationally disadvantaged. (38 U.S.C. 1733; Public Law 92-540, 86 Stat. 1074)

(b) *Correspondence courses*—(1) *High school courses.* The provisions of paragraph (a)(1) of this section, except to servicemen on active duty, and paragraph (a)(5) of this section are applicable to correspondence courses at a secondary school level.

(2) *Other courses.* Except as provided in paragraph (b)(1) of this section, the period of entitlement of any eligible veteran who is pursuing a program of education exclusively by correspondence will be charged with 1 month for each $175 paid to the veteran as an educational assistance allowance for such course for contracts entered into before January 1, 1973. For agreements entered into after December 31, 1972, the period of entitlement of any eligible veteran, wife, or widow who is pursuing a program of education exclusively by correspondence will be charged with 1 month for each $220 paid to the veteran, wife, or widow as an educational assistance allowance for such course. Where the computation results in a period of time other than a full month, or other than exactly three-fourths, one-half, or one-fourth fractional part of a month, the figure will be reduced to the next lower quarter (38 U.S.C. 1786(a)(2)).

* * * * *

12. In § 21.3020, paragraph (b) is amended to read as follows:

§ 21.3020 Educational assistance.

The program of educational assistance under 38 U.S.C. Chapter 35, captioned War Orphans' and Widows' Educational Assistance, may be referred to as Dependents' Educational Assistance.

* * * * *

(b) *36-months limitation.* Educational assistance may not exceed a period of 36 months, or the equivalent in part-time training, unless it is determined that a longer period is required for special restorative training under the circumstances outlined in § 21.3300(c) or except as specified in § 21.3044(c). (38 U.S.C. 1711(a), 1733, 1741(b); Public Law 92-540, 86 Stat. 1074)

* * * * *

13. In § 21.3041(d), the introductory portion preceding subparagraph (1) is amended and subparagraph (8) is added; and paragraph (e)(3) is amended so that the amended and added material reads as follows:

§ 21.3041 Periods of eligibility; child.

* * * * *

(d) *Modified ending date.* When one of the following occurs between ages 18 and 26, the ending date will be 5 years from the applicable ending date specified in paragraphs (d)(1) to (7) of this section and 8 years in paragraph (d)(8) of this section. Where the ending date is subject to modification under more than one of paragraph (d)(3), (4), (5), (6) or (7) of this section, the more favorable date will apply.

* * * * *

(8) If eligibility for chapter 35 benefits arises before October 24, 1972, educational assistance for a course of apprentice or other on-the-job training approved under the provisions of § 21.4261 or § 21.4262 may be extended to October 24, 1980 or until age 31, whichever is earlier.

(e) *Extensions to ending dates.* * * *

(3) Period of eligibility as specified in paragraph (c) or (d) of this section ends while enrolled during last half of quarter or semester, or during last half of course not operating on quarter or semester system: Extended to end of quarter or semester for schools operating on quarter or semester system, or end of course or for 9 weeks, whichever is earlier, for schools not operating on quarter or semester system. In a course pursued exclusively by correspondence, the period of eligibility will be extended to the end of the course or for the total additional amount of instruction that $462 will provide, whichever is less. Extension may be authorized beyond age 31, but may not exceed maximum entitlement. See § 21.3044(a). No extension of the period of eligibility will be made where training is pursued in a training establishment as defined in § 21.4200(c).

* * * * *

14. In § 21.3044, paragraph (c) is added to read as follows:

§ 21.3044 Entitlement.

* * * * *

(c) The 36-months limitation may be exceeded where no charge against entitlement is made based on a course or courses pursued by a wife or widow under the Special Assistance for the Educationally Disadvantaged program. (See § 21.4237.)

15. In § 21.3046, the introductory portion preceding paragraph (a) is amended to read as follows:

§ 21.3046 Periods of eligibility; wives and widows.

The period of eligibility cannot exceed 8 years and can be extended only as provided in paragraph (c) of this section. If eligibility arises before October 24, 1972, educational assistance based on a course of apprentice or other on-the-job training, or correspondence approved under the provisions of §§ 21.4256, 21.4261, and 21.4262 will not be afforded later than October 23, 1980. The period of eligibility of a wife computed under the provisions of paragraph (a) of this section, however, will be recomputed under the provisions of paragraph (b) of this section if her status changes to that of widow.

* * * * *

16. In § 21.3300, paragraph (c) is amended to read as follows:

§ 21.3300 Special restorative training.

* * * * *

(c) Special restorative training may be provided in excess of 36 months where an additional period of time is needed to complete such training. Entitlement, including any authorized in excess of 36 months, may be expended through an accelerated program requiring a rate of payment in excess of $69 per calendar month. See §§ 21.3303 and 21.3333(b) (38 U.S.C. 1741(b)).

* * * * *

17. In § 21.3333, paragraphs (a) and (b) are amended to read as follows:

§ 21.3333 Rates.

(a) *Rates.* Special training allowance is payable at the following monthly rate except as provided in paragraph (c) of this section.

Course	Monthly rate	Accelerated charges
Special restorative training.	$220	If costs for tuition and fees average in excess of $69 per month rate may be increased by such amount in excess of $69.

(b) *Accelerated charges.* The additional monthly rate may be paid if the parent or guardian concurs in having the eligible person's period of entitlement reduced by 1 day for each $7.35 that the special training allowance exceeds the basic monthly rate of $220. Fractions of more than one-half day will be charged as 1 day; fractions of one-half or less will be disregarded. Charges will be recorded when the eligible person is entered into training. (38 U.S.C. 1742)

* * * * *

18. In § 21.4005, paragraphs (a) (1) and (2) and (b) (2) (iv) and (v) are amended to read as follows:

§ 21.4005 Conflicting interests.

(a) *General.* (1) Every officer or employee of the Veterans Administration who has, while such an officer or employee, owned any interest in, or received any wages, salary, dividends, profits, gratuities, or services from, any school operated for profit in which a veteran or eligible person was pursuing a course of education under 38 U.S.C. chapter 34, 35, or 36 will be immediately dismissed from his office or employment.

(2) If the Administrator finds that any person who is an officer or employee of a State approving agency has, while he was such an officer or employee, owned any interest in, or received any wages, salary, dividends, profits, gratuities, or services from, a school operated for profit in which a veteran or eligible person was pursuing a course of education or training under Chapter 34, 35, or 36, payments under § 21.4153 to such State approving agency will be discontinued unless such agency takes, without delay, such steps as may be necessary to terminate the employment of such person and payments will not be resumed while such person is an officer or employee of the State approving agency, or State Department of Veterans' Affairs or State Department of Education.

* * * * *

(b) *Waiver.* Where a request is made for waiver of application of paragraph (a) (1) of this section, it will be considered that no detriment will result to the United States or to veterans or eligible persons by reason of such interest or connection of such officer or employee, if the officer or employee:

* * * * *

(2) Meets all of the following conditions:

* * * * *

(iv) His position does not require him to perform duties involved in the investigation of irregular actions on the part of schools or veterans or eligible persons in connection with 38 U.S.C. ch. 34, 35, or 36.

(v) His position is not connected with the processing of claims by, or payments to, schools, or student enrolled therein under the provisions of 38 U.S.C. ch. 34, 35, or 36.

* * * * *

19. In § 21.4006, the introductory portion of paragraph (a) preceding subparagraph (1) is amended to read as follows:

§ 21.4006 False or misleading statements.

(a) Except as provided in this section payments may not be authorized based on a claim where it is found that the school or any person has willfully submitted a false or misleading claim, or that the veteran or eligible person with the complicity of the school or other person has submitted such a claim. A complete report of the facts will be made to the State approving agency, and if in order to the Attorney General of the United States (38 U.S.C. 1790).

* * * * *

20. Section 21.4020 is revised to read as follows:

§ 21.4020 Two or more programs.

The aggregate period for which any person may receive assistance under two or more of the laws listed below:

(a) Parts VII or VIII, Veterans Regulation numbered 1(a), as amended;

(b) Title II of the Veterans' Readjustment Assistance Act of 1952;

(c) The War Orphans' Educational Assistance Act of 1956;

(d) 38 U.S.C. chs. 31, 34, 35, and 36 and the former Chapter 33

may not exceed 48 months (or the part-time equivalent thereof), but this section shall not be deemed to limit the period for which assistance may be received under Chapter 31 alone (38 U.S.C. 1795).

21. In § 21.4101, paragraph (b) is amended to read as follows:

§ 21.4101 Requirement; 38 U.S.C. ch. 34.

* * * * *

(b) Except as required by § 21.4106, counseling may be required before a second or subsequent change of program is approved, or before a change of program or reentrance is approved where an earlier course was discontinued because of unsatisfactory conduct or progress. (See § 21.4277.)

22. Section 21.4102 is revised to read as follows:

§ 21.4102 Requirement; 38 U.S.C. ch. 35.

(a) *Child.* Counseling is required for an eligible child before approval of an initial course except when the child has been accepted for, or is pursuing, courses which lead to a standard college degree at an approved institution. Counseling is required for all eligible children for reentrance after discontinuance because of unsatisfactory conduct or progress, or a change of program as provided in § 21.4106. The counselor will assist in preparing an educational plan if requested by the eligible person, his parent, or guardian (38 U.S.C. 1720; Public Law 92-540, 86 Stat. 1074).

(b) *Wife or widow.* Counseling is not required for a wife or widow for approval of an initial course or for a change from such course unless the earlier course was discontinued because of unsatisfactory conduct or progress or the change constituted a second or subsequent change. See § 21.4106.

23. Section 21.4106 is revised to read as follows:

§ 21.4106 Counseling; change or reentrance.

(a) *When required.* Counseling, or additional counseling, will be required under the following circumstances unless it is found by the counselor that the change requested is from a program that was not considered suitable in the initial counseling to a program which is supported by the counseling data, and need for additional counseling is not shown.

(1) *38 U.S.C. ch. 34.* For a change from the initial program if interrupted or discontinued due to the veteran's own misconduct, neglect, or lack of application, for any subsequent changes of program after the initial change, or for resumption of a course of education which had been discontinued because of unsatisfactory conduct or progress under § 21.4277.

(2) *38 U.S.C. ch. 35; child.* For any change of program or for resumption of a course of education which had been discontinued because of unsatisfactory conduct or progress under § 21.4277.

(3) *38 U.S.C. ch. 35; wife or widow.* For a change from the initial program if interrupted or discontinued due to the eligible person's own misconduct, neglect, or lack of application for any subsequent changes of program after the initial change, or for resumption of a course of education which has been discontinued under § 21.4277 because of unsatisfactory conduct or progress.

(b) *Approval.* The counselor will recommend approval of a change of program or reentrance into the same program, if he finds that the program which the veteran or eligible person proposes to pursue is suitable to his aptitudes, interests, and abilities; and where the veteran's or eligible person's program has been interrupted, or he has failed to progress in, his program due to his own misconduct, neglect, or lack of application, the cause for the unsatisfactory conduct or progress has been removed and there exists a reasonable likelihood that there will not be a recurrence of such an interruption or failure to progress. Subject to this approval criteria, approval for changes of program subsequent to the second change may be recommended. Negative determinations involving unsatisfactory conduct or progress will be made by the Vocational Rehabilitation Board.

24. In § 21.4130, the introductory portion preceding paragraph (a) is amended to read as follows:

§ 21.4130 Educational assistance allowance.

Educational assistance allowance will be paid at the rate specified in § 21.4136 or § 21.4137 while the veteran or eligible person is pursuing a course of education. Except for apprenticeship and on-the-job training programs, no payment will be made based on a course not leading to a standard college degree for excessive absences as determined under § 21.4205 (b). (See §§ 21.4136(l) and 21.4137(f) for proportionate reduction where less than 120 hours are completed during

month in apprenticeship and on-the-job training programs). After the initial payment, subsequent payments for institutional courses will be made each month in advance. Final payment may be withheld until proof of continued enrollment is received and the account adjusted.

* * * * *

25. In § 21.4131(a), subparagraph (4) is revoked.

§ 21.4131 Commencing dates.

The commencing date of an award or increased award of educational assistance allowance will be determined under this section.

(a) *Entrance or reentrance including change of program or school (§ 21.4234).* * * *

(4) [Revoked]

* * * * *

26. Section 21.4134 is revised to read as follows:

§ 21.4134 Withholding and discontinuance.

Notwithstanding the approval of a course by a State approving agency, educational assistance allowance may be discontinued if it is determined that the course of education in which the individual is enrolled fails to meet, or the school has violated, any of the requirements of Chapter 34, 35, or 36 (38 U.S.C. 1790). Where preliminary evidence indicates that it would be to the best interests of the Government, the station head may withhold further payments to persons enrolled in the school until a determination has been made as to whether approval should be withdrawn and whether overpayments exist. Payments will be promptly released whenever the facts developed justify such action.

27. In § 21.4135, paragraphs (e) and (h) are amended to read as follows:

§ 21.4135 Discontinuance dates.

The effective date of reduction or discontinuance of educational assistance allowance will be specified in this section. If more than one type of reduction or discontinuance is involved, the earliest date will control.

* * * * *

(e) *Course discontinued—course interrupted.* Last day of attendance, or at institutions of higher learning the official date of change in status under the practices of the institution, or if enrollment certified for ordinary school year or complete course and veteran or eligible person has completed one or more terms, but does not return for the next term, discontinuance will be effective the end of the term completed.

* * * * *

(h) *Required certifications not received after certification of enrollment (§§ 21.4203 and 21.4204).* (1) If required initial certification is not timely received, payments will be suspended. If not received within 2 months (two quarters for correspondence) after month due, discontinue date of enrollment. If certification is later received, adjustment will be made based on facts found.

(2) If required subsequent certification is not timely received, payment will be suspended. If not received within 2 months (two quarters for correspondence) after month due, discontinue at end of the last certified period. If certification is later received, adjustment will be made based on facts found.

* * * * *

28. In § 21.4136, paragraphs (a), (c), (g), and (h) are amended and paragraph (j) is added so that the amended and added material reads as follows:

§ 21.4136 Rates; educational assistance allowance; 38 U.S.C. ch. 34.

(a) *Rates.* Educational assistance allowance is payable at the following monthly rates.

Type of courses	Monthly rate			
	No dependent	One dependent	Two dependents	Additional for each additional dependent
Institutional:				
Full time	$220	$261	$298	$18
¾ time	165	196	224	14
½ time	110	131	149	9
Less than ½, but more than ¼ time	[1] 110			
¼ time or less	[1] 55			
Cooperative, other than farm cooperative (full time only)	177	208	236	14
Apprentice or onjob (full time only but see footnote [2] below). Payment designated training assistance allowance:				
First 6 months	160	179	196	8
Second 6 months	120	139	156	8
Third 6 months	80	99	116	8
Fourth 6 months and succeeding periods	40	59	76	8
Correspondence	90 per centum of the established charge for number of lessons completed by veteran and serviced by school.[3] Allowance paid quarterly.			
Flight training	90 per centum of the established charges for tuition and fees which similarly circumstanced nonveterans enrolled in the same flight course are required to pay—Allowance paid monthly based on actual flight training received.			
Farm cooperative:				
Full time	177	208	236	14
¾ time	133	156	177	11
½ time	89	104	118	7

(38 U.S.C. 1677, 1682, 1786, 1787)

[1] See paragraph (b) of this section.
[2] See footnote [2] of section 21.4270(c) for measurement of full time and paragraph (l) of this section for proportionate reduction in award for completion of less than 120 hours per month.
[3] Established charge means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost for the eligible veteran whichever is the lesser. Enrollments before Jan. 1, 1973 will receive 100 per centum of the established charges.

* * * * *

(c) *Active duty.* The monthly rate for an individual who is pursuing a program of education while on active duty may not exceed the monthly rate of the cost of the course as specified in paragraph (b) of this section. For the purpose of a course pursued under the provisions of § 21.4235(a)(1) "cost of the course" shall include the cost of books and supplies peculiar to the course which the institution requires similarly circumstanced nonveterans enrolled in the same or a similar course to have. Where there is no same program, the cost of the course will be established by the Veterans' Administration based on a report from the State approving agency showing the estimated cost for operation of the program and the anticipated enrollment. Subject to these limitations, the rate will be:

Measurement:	*Rate*
Full time	$220
¾ time	165
½ time	110
Less than ½, but more than ¼ time	110
¼ time or less	55

(38 U.S.C. 1682; Public Law 92-540, 86 Stat. 1074)

* * * * *

(g) *Allowance for dependents*—(1) *Concurrent benefits.* Additional educational assistance allowance may be paid to a veteran concurrently with additional disability pension or compensation for the same dependent.

(2) *Two-veteran cases.* The payment of additional educational assistance allowance to a veteran for a wife who is also a veteran and for a child will not bar the payment of additional educational assistance allowance or additional subsistence allowance under § 21.133 to the wife for her husband and the same child. The term "child" includes a veteran who meets the requirements of § 3.57 of this chapter, even though the "child" is receiving subsistence allowance or educational assistance allowance under 38 U.S.C. Chapters 31, 34, or 36 based on his own service (38 U.S.C. 1682, 1787).

(h) *Payment.* Educational assistance allowance at the rates specified in paragraphs (b) and (c) of this section for servicemen on active duty, other than those training under the predischarge education program, who are training on a less than half-time basis, will be paid to or on behalf of the trainee enrolled in an institution operating on a term, quarter, or semester basis in a lump sum for the entire quarter, semester, or term. These payments will be made during the month immediately following the month in which certification is received from

the educational institution that the veteran has enrolled in and is pursuing a program at the institution.

* * * * *

(j) *Advance payment*—(1) *Eligibility.* Educational assistance allowance at the rates specified in § 21.4136(a) shall be paid to an eligible veteran or serviceman on active duty enrolled in an approved educational institution on a half-time or more basis and to all servicemen training under the predischarge education program.

(2) *Payment.* Upon receipt of an application and if there is no evidence in the veteran's or serviceman's file showing that he is not eligible for such an advance, the check for the allowance, made payable to the veteran or serviceman, shall be mailed to the institution for delivery to the veteran or serviceman upon registration. No delivery by the institution shall be made more than 30 days in advance of commencement of his program.

(i) *Veterans.* The amount of the payment is not to exceed the allowance for the month or fraction thereof in which the course will commence plus the allowance for the following month. Subsequent payments shall be made each month in advance subject to certification regulations set out in §§ 21.4138, 21.4203, 21.4204, and 21.4205. Final payment may be withheld until certification is received that the veteran pursued his course and any necessary adjustments made.

(ii) *Servicemen on active duty.* The payment will be in a lump sum based upon the amount payable for the entire quarter, semester, or term, as applicable. The application must be endorsed by the school to verify information needed to determine the lump-sum payment.

(3) *Application.* Payment will be authorized upon receipt of an application which in the case of an eligible serviceman has been endorsed by the educational institution. The application will contain a certification showing the following information:

(i) The veteran or serviceman is eligible for educational benefits;

(ii) He has been accepted by the institution or is eligible to continue his training there;

(iii) He has notified the institution of his intention to attend that institution or to reenroll in it;

(iv) The number of semester, clock or Carnegie hours to be pursued by the veteran or serviceman and the cost of the course for the serviceman; and

(v) The beginning and ending dates of the enrollment period.

(4) *Certification for the predischarge education program.* In addition to the information required in subparagraph (3) of this paragraph, the enrollment certificate shall specify the following:

(i) The program to be pursued has been approved;

(ii) The anticipated cost;

(iii) Where the program to be pursued is other than a high school credit course, the need of the person to pursue the course or courses to be taken.

29. In § 21.4137, paragraph (a) is amended and paragraphs (e), (f), and (g) are added so that the amended and added material reads as follows:

§ 21.4137 Rates; educational assistance allowance; 38 U.S.C. ch. 35.

(a) *Rates.* Educational assistance allowance is payable at the following monthly rates.

Type of courses	Monthly rate
Institutional:	
Full time	$220
¾ time	165
½ time	110
Less than ½, but more than ¼ time	110
¼ time or less	55
Cooperative (full time only)	177
Apprentice or on-job (full time only but see footnote,[1] below):	
Payment designated training assistance allowance:	
1st 6 months	160
2d 6 months	120
3d 6 months	80
4th 6 months and succeeding periods	40

Correspondence: 90 percent of the established charge for number of lessons completed by eligible wife or widow and serviced by the school[2]—allowance paid quarterly. (38 U.S.C. 1732, 1786, 1787)

* * * * *

(e) *Payment.* Educational assistance allowance at the rates specified in paragraph (b) of this section will be paid to or on behalf of the eligible person enrolled in an institution operating on a term, quarter, or semester basis in a lump sum for the entire quarter, semester, or term. These payments will be made during the month immediately following the month in which certification is received from the educational institution that the eligible person has enrolled in and is pursuing a program at the institution.

(f) *Proportionate reduction in monthly training assistance allowance less than 120 hours.* For any month in which an eligible person pursuing an apprenticeship or on-job training program fails to complete 120 hours of training the rate specified in paragraph (a) of this section shall be reduced proportionately in the proportion that the number of hours worked bears to 120 hours. This 120-hour requirement is for training hours worked and may not include hours of related training also required as part of the program. In this computation the number of hours worked is to be rounded to the nearest multiple of eight. (See Footnote 5 to § 21.4270 as to the requirements for full-time training.)

(g) *Advance payment*—(1) *Eligibility.* Educational assistance allowance at the rates specified in § 21.4137(a) shall be paid to an eligible person enrolled in an approved educational institution on a half-time or more basis.

(2) *Payment.* The amount of the payment is not to exceed the allowance for the month or fraction thereof in which the course will commence plus the allowance for the following month. Upon receipt of an application and if there is no evidence in the eligible person's file showing that he is not eligible for such an advance, the check, made payable to the eligible person, shall be mailed to the institution for delivery to the eligible person upon registration. No delivery shall be made more than 30 days in advance of commencement of his program. Subsequent payments shall be made each month in advance subject to certification requirements set out in §§ 21.4138, 21.4203, 21.4204, and 21.4205. Final payment may be withheld until certification is received that the eligible person pursued his course and any necessary adjustments made.

(3) *Certification.* Payment will be authorized upon receipt of the application. The application will contain a certification showing the following information:

(i) The eligible person is eligible for educational benefits;

(ii) The eligible person has been accepted by the institution or is eligible to continue training there;

(iii) The eligible person has notified the institution of his intention to attend that institution or to reenroll in it;

(iv) The number of semester, clock or Carnegie hours to be pursued by the eligible person; and

(v) The beginning and ending dates of the enrollment period.

30. Section 21.4138 is revised and a cross-reference is added following § 21.4138 to read as follows:

§ 21.4138 Certifications.

Educational assistance allowance will be paid to or on behalf of a veteran or eligible person under Chapter 34 or 35 on the basis of a certification as required in §§ 21.4136, 21.4137, 21.4203, 21.4204, and 21.4205 concerning enrollment in or the pursuit of a course during the reporting period. For institutional courses not leading to a standard college degree:

(a) Where a course is pursued in an institution operating on a term, quarter, or semester basis on a less than half-time basis or while on active duty, other than

---

[1] See footnote 5 of § 21.4270(g) for measurement of full time and paragraph (f) of this section for proportionate reduction in award for completion of less than 120 hours per month.

[2] Established charge means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost for the eligible wife or widow whichever is lesser.

for training under the predischarge education program, a certification by the institution that the eligible individual has enrolled will be sufficient for release of a lump-sum payment to or on behalf of the individual computed for the entire quarter, semester or term.

(b) Where a course is pursued by an eligible person or an eligible veteran not on active duty and on a half-time or greater basis, an application from such eligible person or veteran certifying that he will be enrolled will be sufficient to release payment of educational assistance allowance representing the initial payment of an enrollment period, not to exceed the allowance for the month or fraction thereof in which the course will commence plus the allowance for the following month. Subsequent payments shall be made each month in advance subject to submission of reports from the eligible person or veteran and the school as required by §§ 21.4203, 21.4204, and 21.4205. Payment for the last month of the enrollment period will be released upon receipt of the final certification required by §§ 21.4203 and 21.4205.

(c) Where a course is pursued by a serviceman on active duty on a half-time or greater basis, or by a serviceman training under the predischarge education program, a certification by the school that the serviceman will be enrolled will be sufficient to release payment in a lump sum not earlier than 30 days prior to the date the serviceman's program of training will begin.

CROSS REFERENCES: *Payments.* See §§ 21.4136(h), 21.4137(e).

31. Section 21.4140 is revised to read as follows:

§ 21.4140 Apportionment.

(a) *General.* Where in order, that portion of the educational assistance allowance payable to a veteran training under Chapter 34 because of dependents will be subject to apportionment in accordance with § 3.451 of this chapter, subject to the limitations of § 3.458 of this chapter.

(b) *Effective date.* The effective date of apportionment will be as prescribed in § 3.400(e) of this chapter.

32. In § 21.4153(c), subparagraph (3) is amended to read as follows:

§ 21.4153 Reimbursement of expenses.

* * * * *

(c) *Reimbursable expenses.* * * *

(3) *Administrative expenses.* An allowance for administrative expenses for which payment may be authorized will be determined in accordance with the formula contained in this subparagraph. Salary cost includes basic salary plus fringe benefits such as Social Security, retirement, and health, accident or life insurance which is provided all similarly circumstanced State employees.

Total salary cost reimbursable	*Allowance for administrative expense*
$5,000 or less	$500.
Over $5,000 but not exceeding $10,000.	$900.
Over $10,000 but not exceeding $35,000.	$900 for the first $10,000 plus $800 for each additional $5,000 or fraction thereof.
Over $35,000 but not exceeding $40,000.	$5,250.
Over $40,000 but not exceeding $75,000.	$5,250 for the first $40,000 plus $700 for each additional $5,000 or fraction thereof.
Over $75,000 but not exceeding $80,000.	$10,450.
Over $80,000	$10,450 for the first $80,000 plus $600 for each additional $5,000 or fraction thereof.

* * * * *

33. In § 21.4200, paragraphs (a)(2) and (c) are amended to read as follows:

§ 21.4200 Definitions.

(a) *School, educational institution, institution.* * * *

(2) For Chapter 35 these terms mean any public or private secondary school, vocational school, correspondence school, business school, junior college, teachers' college, college, normal school, professional school, university or scientific or technical institution or any other institution if it furnishes education at the secondary school level or above. They include institutions which provide specialized vocational courses for the mentally or physically handicapped generally recognized as on the secondary school level or above. It also includes training establishments as defined in paragraph (c) of this section (38 U.S.C. 1701(a)(6)).

* * * * *

(c) *Training establishment.* The term means any establishment providing apprentice or other training on-the-job, including those under the supervision of a college or university or any State department of education, or any State apprenticeship agency, or any State board of vocational education, or any joint apprenticeship committee, or the Bureau of Apprenticeship and Training established in accordance with 29 U.S.C. Chapter 4C, or any agency of the Federal Government authorized to supervise such training (38 U.S.C. 1652(e), 1701(a)(9); Public Law 92-540, 86 Stat. 1074).

34. Section 21.4201 is revised to read as follows:

§ 21.4201 Schools listed by Attorney General.

Enrollment may not be approved for a course in a school while it is listed by the Attorney General under section 12, Executive Order 10450 (18 FR 2489) (38 U.S.C. 1793).

35. In § 21.4202, paragraph (a) is amended to read as follows:

§ 21.4202 Overcharges; restrictions on enrollments.

(a) *Overcharges.* When it is found that a school has charged or received from any veteran or eligible person any amount in excess of the established charges for tuition and fees which the school requires from similarly circumstanced nonveterans or noneligible persons enrolled in the same course, the school may be disapproved for enrollment of any person not already enrolled in the school. A school disapproved for Chapter 35 purposes before March 3, 1966, is considered disapproved for Chapter 34 purposes for enrollment of any veteran not already enrolled (38 U.S.C. 1790). See § 21.4207.

* * * * *

36. In § 21.4203, paragraphs (b)(1) and (2), (d)(1), (e), and (f)(1) and (2) are amended to read as follows:

§ 21.4203 Reports by schools; requirements.

* * * * *

(b) *Entrance or reentrance.* The certification must clearly specify the program objective. Upon receipt of a certification of enrollment, an official authorization will be issued showing the beginning and ending dates of each period for which an allowance may be paid. The authorization will be for the period of enrollment or the extent of the eligible person's entitlement, whichever is the lesser.

(1) Schools organized on a term, quarter, or semester basis may generally report enrollment for the term, quarter, or semester or the complete course to the expected date of graduation. Certifications for the ordinary school year may include the summer session. Certifications for the complete course will include a report of the dates between school years if the school does not offer a summer session that includes all or a part of each month between the spring and fall term, or the veteran or eligible person does not intend to attend the summer session. No allowances are payable for these intervals. Enrollment certifications for the complete course are encouraged, except where the student is a veteran or eligible person pursuing a program on a less than half-time basis or is a serviceman. For these students a separate enrollment certification will be required for each term, quarter, or semester.

(2) Schools organized on a year-round basis will report enrollment for the length of the course. The certification will include a report of the dates during which the school closes for any interval designated in the school's approval data

as breaks between school years. No allowances are payable for these intervals.

* * * * *

(d) *Interruptions and terminations.* When a veteran or eligible person interrupts or terminates his training for whatever reason, including unsatisfactory conduct or progress, this fact must be reported promptly to the Veterans Administration.

(1) Where the school offering courses not leading to a standard college degree is required to submit a certification, the information required by this paragraph and paragraph (c) of this section should be included in the endorsement to the veteran's or eligible person's certification. The certification will include a report of absences since the last regular reporting period.

* * * * *

(e) *Correspondence courses.* Where the course in which a veteran is enrolled under 38 U.S.C. Chapter 34 or a wife or widow is enrolled under 38 U.S.C. Chapter 35 is pursued exclusively by correspondence, the school will report by an endorsement on the veteran's or eligible wife's or widow's certification the number of lessons completed by the veteran, wife, or widow and serviced by the school. Such reports will be submitted quarterly (38 U.S.C. 1780).

(f) *Monthly certification—(1) Courses not leading to a standard college degree.* A certification must be submitted monthly, except for those courses pursued by servicemen while on active duty or on less than one-half time basis, and except as provided in paragraphs (e) and (g) of this section, for each veteran and eligible person enrolled in a course which does not lead to a standard college degree. (See § 21.4204.) A report also will be required before release of the final allowance check. The report will consist of a certification containing the information required for release of payment, signed by the veteran or eligible person and the school on or after the final date of the reporting period. The date on which each person signed must be clearly shown. The only exception to the requirement of two signatures is a certification of interruption of training when the veteran or eligible person is not available for signature.

(2) *Courses leading to a standard college degree.* Schools which have veterans or eligible persons enrolled in courses which lead to a standard college degree are not required to submit periodic certifications for students enrolled in such courses. Certifications are, however, required under paragraphs (b), (c), and (d) of this section.

* * * * *

37. In § 21.4204, paragraphs (a), (c) (1), and (d) are amended to read as follows:

§ 21.4204 Periodic certifications.

Educational assistance allowance is payable on the basis of a required certification concerning the pursuit of a course during the reporting period.

(a) *Reports by schools, veterans and eligible persons.* A veteran or eligible person enrolled in a course which leads to a standard college degree, excepting those on active duty and veterans or eligible persons pursuing the course on a less than half-time basis, must submit a report as required by the Veterans Administration, certifying as to continued enrollment in and pursuit of his course for the entire enrollment period. The report shall be completed and signed by the veteran or eligible person in April each year. In the case of a veteran or eligible person who completed, interrupted, or terminated his course, any communication from an authorized official of the school notifying the Veterans Administration of the veteran's or eligible person's completion of course as scheduled or earlier termination date, will be accepted to release and terminate payments accordingly. In the case of a scheduled termination at other than the end of the spring term, semester, or quarter, a report will be required during the last month of the certified period of enrollment. Reports by other veterans and eligible persons will be submitted in accordance with § 21.4203 (e), (f), or (g).

* * * * *

(c) *Term, quarter, or semester.* For a course which does not lead to a standard college degree, if a school organized on a term, quarter, or semester basis has reported enrollment:

(1) For the ordinary school year or the complete course, the periodic certification will show the intervals between terms, quarters, or semesters as absences.

* * * * *

(d) *Year-round courses.* The periodic certifications will show any vacation period or interval between periods of instruction as absences. The periodic certification will not cover the period between school years.

* * * * *

38. In § 21.4206, paragraph (c) is added to read as follows:

§ 21.4206 Reporting fee.

* * * * *

(c) An additional $1 will be paid to those institutions who have delivered to the veteran or eligible person at registration the educational assistance check representing his advance payment. In order to receive this fee, the institution shall submit to the Veterans Administration a certification of delivery of the check. If the check is not delivered within 30 days after commencement of the student's program, the check is to be returned to the Veterans Administration (38 U.S.C. 1780).

39. In § 21.4207, the introductory portion preceding paragraph (a) is amended to read as follows:

§ 21.4207 Failure of school to meet requirements.

When the Veterans Administration discovers facts which appear to warrant a finding that the school is in violation of specific criteria of 38 U.S.C. Chapters 34, 35, or 36, including failure to meet requirements for approval of a course offered to a veteran or eligible person and institution of policies regarding payment of tuition and fees so as to deny the benefits of the advance payment program, the facts will be referred to the field station Committee on Educational Allowances.

* * * * *

40. In § 21.4209, paragraphs (a) and (c) are amended to read as follows:

§ 21.4209 Examination of records.

(a) *Availability.* The records and accounts of educational institutions pertaining to veterans and eligible persons enrolled in programs of education or special restorative training under 38 U.S.C. Chapter 34 or 35 will be available for examination by duly authorized representatives of the Government (38 U.S.C. 1790).

* * * * *

(c) *Below college level, apprentice, and other on-the-job.* The school having veterans or eligible persons enrolled in a course or courses which do not lead to a standard college degree will make available, in addition to the records and accounts required in paragraph (b) of this section, the records of leave, absences, class cuts, makeup work, and tardiness. Each training establishment which has enrolled veterans under Chapter 34 or eligible persons under Chapter 35 will also make available payroll records.

* * * * *

41 In § 21.4230, paragraph (d) is amended to read as follows:

§ 21.4230 Requirements.

* * * * *

(d) *Provisional; Chapter 35; child.* When application for educational assistance under Chapter 35 is approved provisionally the eligible child and, if a minor, the parent or guardian also will be informed of the need to develop a program of education consistent with paragraphs (a) and (b) of this section. In those cases where the eligible child has been accepted for, or is pursuing, courses which lead to a standard college degree at an approved institution, an educational plan may be submitted and approved without counseling if it meets the requirements of paragraphs (a) and (b) of this section (38 U.S.C. 1713, 1720; Public Law 92–540, 86 Stat. 1074).

* * * * *

42. In § 21.4231(b), subparagraph (2) is amended to read as follows:

§ 21.4231 Educational plan; 38 U.S.C. ch. 35; child.

* * * * *

(b) Final approval of the educational plan will be given when it is determined that:

* * * * *

(2) The educational plan is consistent with Veterans Administration regulations on providing a program of education and does not include any courses

which are precluded under 38 U.S.C. ch. 35 (38 U.S.C. 1720).

43. In § 21.4232, paragraph (a) is amended to read as follows:

§ 21.4232 Specialized vocational training; 38 U.S.C. ch. 35.

(a) A program consisting of a specialized course of vocational training may be provided to an eligible person who is not in need of special restorative training and who requires such a program because of a mental or physical handicap (38 U.S.C. 1736). The Vocational Rehabilitation Board will determine whether such a course is in the best interest of the eligible person. If the determination is in the affirmative the board will assist in developing the program and a suitable educational plan. If it is determined that such a program is not in the best interest of the eligible person the application for the program will be denied. Specialized vocational training may be authorized for an eligible child only if the child has passed his 14th birthday.

* * * * *

44. In § 21.4234, the introductory portion preceding paragraph (a), and paragraphs (b)(2) and (c) are amended to read as follows:

§ 21.4234 Change of program.

A request for a change of program may be made by a veteran or eligible person by any form of communication, however, if sufficient information is not furnished to process his request, the prescribed form for a change of program may be furnished him for completion. An eligible child needs the concurrence of his parent or guardian and appropriate counseling by the Veterans Administration before a change of program is approved. More than two changes of program may be approved if it is found that such additional changes are necessitated by circumstances beyond the control of the veteran or eligible person (38 U.S.C. 1791; Public Law 92-540, 86 Stat. 1074).

* * * * *

(b) *Chapter 34.* The veteran may make one optional change of program if his previous course was not interrupted or discontinued due to his own misconduct, neglect or lack of application. He may make a second change or an initial change after interruption or discontinuance due to his own misconduct, neglect or lack of application if it is found that:

* * * * *

(2) In any instance where the veteran has interrupted, or failed to progress in, his program due to his own misconduct, neglect or lack of application, there exists a reasonable likelihood with respect to the program which the veteran proposes to pursue that there will not be a recurrence of such an interruption or failure to progress (38 U.S.C. 1791).

(c) *Chapter 35; child.* After further counseling one change will be approved and a second change may be approved, if the criteria of paragraph (b) (1) and (2) of this section are satisfied. The approval of such change will also be subject to the requirement that the educational plan for the new program must meet the criteria applicable to final approval of an original application. See §§ 21.4230 and 21.4231 (38 U.S.C. 1791).

* * * * *

45. In § 21.4235, paragraph (a) (2) and (3) is amended to read as follows:

§ 21.4235 Predischarge Education Program (PREP) and Special Assistance for Educationally Disadvantaged Veterans; chapter 34.

(a) *Enrollment.* Enrollment of a veteran may be approved in any elementary, secondary, preparatory, refresher, remedial, deficiency, or special educational assistance course not otherwise prohibited, regardless of his previous educational experience:

* * * * *

(2) After discharge or release from active duty without receipt therein of a secondary school diploma or equivalency certificate, if such course or courses are required to receive a secondary school diploma; or

(3) After discharge or release from active duty, if such course or courses are necessary to the pursuit of a program of education for which he would be eligible but for that lack.

* * * * *

46. In § 21.4236, the headnote and paragraphs (a), (b)(1), (c) and (d) are amended to read as follows:

§ 21.4236 Special supplemental assistance (tutorial).

(a) *Enrollment.* A veteran or eligible person pursuing a postsecondary educational program on a half-time or more basis at an educational institution who has a deficiency in a subject which is indispensable to the satisfactory pursuit of an approved program of education may receive special supplemental monetary assistance to provide tutorial services.

(b) *Certification.* Approval will be granted upon certification by the educational institution:

(1) That individualized tutorial assistance is essential to correct a deficiency in a specified subject or subjects required as a part of, or which is prerequisite to, or which is indispensable to, the satisfactory pursuit of an approved program of education;

* * * * *

(c) *Educational assistance allowance.* In addition to payment of educational assistance allowance at the monthly rates specified in § 21.4136 or § 21.4137 the cost of such tutorial assistance in an amount not to exceed $50 per month will be authorized.

(d) *Entitlement charge.* No charge will be made against the period of the veteran's entitlement as computed under § 21.1041 or the eligible person's entitlement as computed under § 21.3044. Special supplemental assistance provided under this section will not exceed a maximum of $450 (38 U.S.C. 1690, 1692, 1693).

47. Section 21.4237 and a cross reference are added to read as follows:

§ 21.4237 Special assistance for the educationally disadvantaged; chapter 35; wife or widow.

(a) *Enrollment.* Enrollment of an eligible wife or widow may be approved in an appropriate course or courses at the secondary school level in a State if the wife or widow:

(1) Has not received a secondary school diploma (or an equivalency certificate),

(2) Needs additional secondary school education, remedial, refresher or deficiency courses, to qualify for admission to an appropriate educational institution in a State in order to pursue a program of education, and

(3) Is to pursue the course or courses in a State.

(b) *Measurement.* Remedial, deficiency or refresher courses offered at the secondary school level will be measured as provided in §§ 21.4271(c) and 21.4272 (f).

(c) *Educational assistance allowance.* Educational assistance allowance will be authorized at the monthly rates specified in § 21.4137.

(d) *Entitlement charge.* No charge will be made against the period of the entitlement of the wife or widow because of enrollment in courses under the provisions of this section (38 U.S.C. 1733; Public Law 92-540, 86 Stat. 1074).

CROSS REFERENCE: High school evening courses. See § 21.4271.

48. In § 21.4250(c), subparagraphs (2) and (4) are amended to read as follows:

§ 21.4250 Approval of courses.

* * * * *

(c) *Veterans Administration approval.* The Director, Education and Rehabilitation Service, may approve:

* * * * *

(2) A course of education offered by any agency of the Federal Government authorized under other laws to offer such course; applications for courses at Department of Defense Overseas Dependents Schools and schools under contract with Department of Defense must include a copy of the report from Department of Defense to the Committees on Veterans' Affairs of the Senate and House of Representatives indicating the schools are to be used under the Predischarge Education Program. Courses approved before October 24, 1972 will be considered approved until January 22, 1973 without this submission.

* * * * *

(4) Except as provided in § 21.4150(d) as to the Republic of the Philippines, a course of education to be pursued under 38 U.S.C. ch. 34 or 35 offered by an institution of higher learning not located in a State (38 U.S.C. 1676, 1723); and

* * * * *

49. In § 21.4251(a), subparagraphs (3) and (4) are amended and subparagraph (5) is added so that the amended and added material reads as follows:

§ 21.4251 Period of operation of course.

(a) *General.* A course offered by a school other than a job training establishment will be appropriate for the enrollment of a veteran or eligible person only if it has been in operation for 2 years or more immediately prior to the date of enrollment of such person, except that this provision does not apply to:

* * * * *

(3) Any course which has been offered by a school for a period of more than 2 years, notwithstanding that the school has moved to another location within the same general locality, or where the school has made a complete move with substantially the same faculty, curricula, and students, without a change in ownership; or

(4) Any course which is offered by a nonprofit school of college level and which is recognized for credit toward a standard college degree; or

(5) Any course for the educationally disadvantaged or the predischarge education program offered by a proprietary nonprofit educational institution, at the principal or branch location, when the institution offering the course has been in operation for more than 2 years (38 U.S.C. 1789).

* * * * *

50. In § 21.4252, paragraphs (e), (f) (1), and (g) are amended to read as follows:

§ 21.4252 Courses precluded.

* * * * *

(e) *Correspondence courses.* Enrollment in such courses will not be approved for eligible children under Chapter 35. See § 21.4256 as to Chapter 34 and wives and widows under Chapter 35.

(f) *Courses on secondary level; Chapter 35.* (1) A curriculum offered by a public or private school at the secondary school level leading to the completion of the eligible child's regular secondary school education, that is, leading to a high school diploma or its equivalent, may not be pursued as a program of education or as part of a course of education of an eligible child under Chapter 35. An eligible wife or widow may pursue secondary school courses only under the special assistance for the educationally disadvantaged program. (See § 21.4237.)

* * * * *

(g) *On-farm courses; Chapter 35.* Enrollment in such courses will not be approved for eligible persons under Chapter 35 (38 U.S.C. 1723(c)).

* * * * *

51. In § 21.4253(a), subparagraph (2) is amended to read as follows:

§ 21.4253 Accredited courses.

(a) *General.* A course may be approved as an accredited course if it meets one of the following requirements:

* * * * *

(2) Credit for such course is approved by the State department of education for credit toward a high school diploma.

* * * * *

52. Section 21.4256 is revised to read as follows:

§ 21.4256 Correspondence courses.

(a) A school desiring to enroll veterans under Chapter 34 and eligible wives and widows under Chapter 35 for correspondence courses may have such courses approved when the courses and the school meet the requirements of § 21.4253 or § 21.4254, as applicable, and when its application demonstrates that the course is satisfactory in all elements. In addition the institution shall have the following enrollment and termination procedures.

(1) The enrollment agreement shall disclose fully the obligations of the institution and the veteran, wife, or widow and shall display in a prominent place on the agreement the conditions for affirmance, termination, refund, and payment of the educational allowance by the Veterans Administration.

(2) A copy of the agreement shall be given to the veteran, wife, or widow when it is signed.

(3) The agreement shall not be effective unless the veteran, wife, or widow, after the expiration of 10 days after the agreement is signed, shall have signed and submitted to the Veterans Administration a written statement, with a signed copy to the institution, specifically affirming the agreement.

(4) Upon notification of the institution by the veteran, wife, or widow of an intention not to affirm the agreement, any fees paid by the individual shall be returned promptly in full to him.

(5) Upon termination of the affirmed agreement for training in an accredited course by the veteran, wife, or widow, without having completed any lessons, a registration fee not in excess of 10 percent of the tuition for the course or $50, whichever is lesser, may be charged him. When the agreement is terminated after completion of less than 25 percent of the lessons of the course, the institution may retain the registration fee plus 25 percent of the tuition for the course. When the agreement is terminated after 25 percent but less than 50 percent of the lessons are completed, the institution may retain the registration fee plus 50 percent of the tuition for the course. If 50 percent or more of the lessons are completed, no refund of tuition is required.

(6) Where the school either has or adopts an established policy for the refund of the unused portion of tuition, fees, and other charges subject to proration, which is more favorable to the veteran, wife, or widow than the pro rata basis as provided in paragraph (a) (5) of this section, such established policy will be applicable.

(b) Whenever the State approving agency approves a correspondence course for training of veterans under Chapter 34 and eligible wives and widows under Chapter 35, it shall immediately notify the Veterans Administration, identifying the school, the course or courses approved, and the educational or vocational objective of each approved course.

53. Section 21.4260 is revised to read as follows:

§ 21.4260 Courses in foreign countries.

Enrollment in a course at a school not located in a State may be approved:

(a) In accordance with § 21.4250(c) when such course is pursued at an institution of higher learning, or

(b) When such course or courses contemplated under the provisions of § 21.4235(a)(1) are:

(1) Pursued at an institution operated by the Department of Defense, or

(2) Provided by an institution under a contract with the Department of Defense. Such course or courses must accord with regulations prescribed by the Administrator of Veterans Affairs. Assurance of compliance with the terms of such contract by such institution shall be the function of the Department of Defense.

The educational assistance allowance to a veteran or eligible person pursuing a course in a foreign country will be denied or discontinued when it is found that such enrollment is not for the best interests of the veteran, eligible person, or the Government.

54. In § 21.4261, the headnote and paragraphs (b)(1) and (c) (2) and (3) are amended to read as follows:

§ 21.4261 Apprentice courses.

* * * * *

(b) *Application.* Any training establishment desiring to furnish a course of apprentice training will submit a written application to the appropriate State approving agency setting forth the following:

(1) Title and description of the specific job objective for which the veteran or eligible person is to be trained;

* * * * *

(c) *Approval criteria.* The appropriate State approving agency may approve a course of apprentice training when the training establishment and its apprentice courses are found upon investigation to have met the following criteria:

* * * * *

(2) A signed copy of the training agreement for each veteran or eligible person, making reference to the training program and wage schedule as approved by the State approving agency, is provided to the veteran or eligible person and the Veterans Administration and the State approving agency by the employer; and

(3) The course meets such other reasonable criteria as may be established by the State approving agency (38 U.S.C. 1787).

55. In § 21.4262, the headnote and paragraphs (b) (1), (5), (6), and (7) and (c) (2), (4), (5), (7), (8), and (10) are amended to read as follows:

§ 21.4262 Other training on-the-job courses.

* * * * *

(b) *Application.* Any training establishment desiring to furnish a course of other training on-the-job will submit to the appropriate State approving agency a written application setting forth the following:

(1) Title and description of the specific job objective for which the veteran or eligible person is to be trained;

* * * * *

(5) The entrance wage or salary paid by the training establishment to employees already trained in the kind of work for which the veteran or eligible person is to be trained;

(6) A certification that the wages to be paid the veteran or eligible person upon entrance into training are not less than wages paid nonveterans in the same training position and are at least 50 percent of the wages paid for the job for which he is to be trained, and will be increased in regular periodic increments until, not later than the last full month of the scheduled training period they will be at least 85 percent of the wages paid for the job for which the veteran or eligible person is being trained;

(7) A certification that there is reasonable certainty that the job for which the veteran or eligible person is to be trained will be available to him at the end of the training period; and

* * * * *

(c) *Approval criteria.* The appropriate State approving agency may approve the application submitted under paragraph (b) of this section, when the training establishment and its courses are found upon investigation to have met the criteria outlined in this paragraph. Approval will not be granted for training in occupations which require a relatively short period of experience for a trainee to obtain and hold employment at the market wage in the occupation. This includes occupations such as automobile service station attendant or manager, soda fountain attendant, food service worker, salesman, window washer, building custodian or other unskilled or common labor positions as well as clerical positions for which on-the-job training is not the normal method of procuring qualified personnel.

* * * * *

(2) The training content of the course is adequate to qualify the veteran or eligible person for appointment to the job for which he is to be trained;

* * * * *

(4) The length of the training period is not longer than that customarily required by the training establishments in the community to provide the veteran or eligible person with the required skills, arrange for the acquiring of job knowledge, technical information, and other facts which the veteran or eligible person will need to learn in order to become competent on the job for which he is being trained;

(5) Provision is made for related instruction for the individual veteran or eligible person who may need it;

* * * * *

(7) Adequate records are kept to show the progress made by each veteran or eligible person toward his job objective;

(8) The veteran or eligible person is not already qualified by training and experience for the job;

* * * * *

(10) A signed copy of the training agreement for each veteran or eligible person, including the training program and wage schedule as approved by the State approving agency, is provided to the veteran or eligible person and the Veterans Administration and the State approving agency by the employer; and

* * * * *

56. In § 21.4264, paragraphs (a) and (c) are amended to read as follows:

§ 21.4264 Farm cooperative courses; 38 U.S.C. Chapter 34.

(a) *General.* A farm cooperative course is an institutional agricultural course which is pursued by an individual who is concurrently engaged in agricultural employment which is relevant to the agricultural course.

(1) The institutional portion may be on a term, quarter, or semester basis or in the alternative it may consist of courses prescheduled to fall within not less than 44 weeks of the year at a minimum of 5-clock hours per week, or for full-time training the 440-clock hours a year may be prescheduled to provide not less than 80-clock hours in any 3-month period.

(2) In computing the clock-hour requirements, the time involved in field trips and individual and group instruction may be included when they are sponsored and conducted by the educational institution through a duly authorized instructor of such institution in which the veteran is enrolled (38 U.S.C. 1682; Public Law 92–540, 86 Stat. 1074).

* * * * *

(c) *Approval criteria.* The appropriate State approving agency may approve the application of such school when the school and its courses are found upon investigation to have met the following conditions:

(1) The criteria specified in § 21.4253 or § 21.4254, as appropriate; and

(2) The requirements of paragraph (b) of this section.

57. In § 21.4270, paragraph (h) and footnotes 1 and 2 are amended and footnote 6 is added so that the amended and added material reads as follows:

§ 21.4270 Measurement of courses.

Clock hours and class sessions mentioned in this table mean clock hours and class sessions per week.

COURSES

Kind of school	Kind of course	Full time	¾ time	½ time	Less than ½, more than ¼ time	¼ time or less
* * *	* * *	* * *	* * *	* * *	* * *	* * *
(h) Agricultural	Farm cooperative [1]	10 clock hours net instruction [2]	7 clock hours net instruction	5 clock hours net instruction	No provisions.	
* * *	* * *	* * *	* * *	* * *	* * *	* * *

[1] In measuring net instruction there will be included customary intervals not to exceed 10 minutes between classes. Shop practice and rest periods are excluded. Supervised instruction periods in school's shops in farm cooperative programs and the time involved in field trips and individual and group instruction may be including in computing the clock hour requirements.

[2] Diploma course or equivalent based on completion of 16 instruction units. If student is pursuing course at rate which would result in an accredited high school diploma at end of four ordinary school years, he is considered in full-time training. High school diploma courses or equivalent available only for chapter 34 and eligible wives and widows under chapter 35.

* * * * * *

[6] For full-time training the 440 clock hours a year may be prescheduled to provide not less than 80 clock hours in any 3-month period.

58. In § 21.4271, paragraph (c) is amended to read as follows:

§ 21.4271 Trade or technical; high schools.

* * * * *

(c) *High schools.* Courses offered at the secondary school level which lead to a high school diploma or the equivalent will be measured on the basis of clock hours of instruction per week, or on the number of units required per year. Enrollment in courses at a secondary school level leading to a high school diploma or the equivalent will not be approved for eligible children under Chapter 35. Eligible wives and widows under Chapter 35 may pursue such courses under the Special Assistance for the Educationally Disadvantaged program.

59. In § 21.4272, paragraphs (f)(2) and (g) are amended to read as follows:

§ 21.4272 Collegiate undergraduate; credit-hour basis.

An undergraduate course in an institution of higher learning will be measured on a credit-hour basis provided all the conditions under paragraph (a), (b), or (c) of this section are met. Wherever "member of a nationally recognized accrediting association" is used in this section it will include a "Recognized Candidate" for accreditation or membership as this term is used by the regional accrediting associations.

* * * * *

(f) *Noncredit deficiency courses.* * * *

(2) *Entitlement charge.* For awards to eligible children under chapter 35, the

entitlement charge will be made on the same basis as measurement for payment purposes. For awards under chapter 34 and for wives and widows under chapter 35, no entitlement charge will be made for any noncredit deficiency course on a secondary school level.

(g) *Noncredit courses; deficiency, remedial, and refresher.* Except for courses leading to a high school diploma or the equivalent, noncredit courses given by an institution of higher learning shall be measured on a quarter- or semester-hour basis if considered by the institution to be the equivalent, for other administrative purposes, of undergraduate courses that lead to a standard college degree at the school. Other noncredit courses shall be measured under § 21.4270 (a), (b), or (l) as appropriate.

[FR Doc.73-11380 Filed 6-6-73;8:45 am]

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart D—Administration of Educational Benefits: 38 U.S.C., Chapters 34, 35, and 36

PREDISCHARGE EDUCATION PROGRAM

Section 21.4235 is amended to include, in the meaning of a course under the predischarge education program, individual unit subjects within a general education development (GED) examination program which are required for or preparatory to the pursuit of an appropriate course or training program in an approved educational institution or training establishment.

Compliance with the provisions of § 1.12 of this chapter, as to notice of proposed regulatory development and delayed effective date, is unnecessary in this instance and would serve no useful purpose. This amendment places in regulatory form a policy which is already in practice.

In § 21.4235(a), subparagraph (1) is amended to read as follows:

§ 21.4235 Predischarge Education Program (PREP) and Special Assistance for Educationally Disadvantaged Veterans; Chapter 34.

(a) *Enrollment.*—Enrollment of a veteran may be approved in any elementary, secondary, preparatory, refresher, remedial, deficiency, or special educational assistance course not otherwise prohibited, regardless of his previous educational experience;

(1) While he is on active duty and meets the eligibility requirements of § 21.1040(e)(3), if such course or courses (but not including correspondence courses) are required to receive a secondary school diploma, or if such course or courses (including individual unit subjects within a general education development (GED) examination program) are required for or preparatory to the pursuit of an appropriate course or training program in an approved educational institution or training establishment; or

* * * * *

(72 Stat. 1114; 38 U.S.C. 210)

This VA regulation is effective October 24, 1972.

Approved, June 1, 1973.

By direction of the Administrator.

[SEAL] RUFUS H. WILSON,
Associate Deputy Administrator.

[FR Doc.73-11379 Filed 6-6-73;8:45 am]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER G—OCCUPATIONAL SAFETY AND HEALTH RESEARCH AND RELATED ACTIVITIES

PART 84—CERTIFICATION OF GAS DETECTOR TUBES

Procedure for Evaluation and Certification

Correction

In FR Doc. 73-9040 appearing at page 11458 in the issue for Tuesday, May 8, 1973, make the following changes:

1. In the table of contents in § 84.30 the word "quantity" should read "quality".

2. The ninth line of § 84.2(e) reading "ponents thereof will be undertaken by" should be deleted and "ponent which changes the nature of the" substituted therefor.

Title 45—Public Welfare

CHAPTER X—OFFICE OF ECONOMIC OPPORTUNITY

PART 1060—GENERAL CHARACTERISTICS OF COMMUNITY ACTION PROGRAMS

Subpart—OEO Income Poverty Guidelines

This subpart revises the OEO poverty guidelines as required by section 625 of the Economic Opportunity Act of 1964, as amended. These guidelines are used to determine program eligibility. Accordingly, chapter X, part 1060 of title 45 of the Code of Federal Regulations is revised to read as follows:

Sec.
1060.2-1 Applicability.
1060.2-2 Background.
1060.2-3 Policy.

AUTHORITY.—Sec. 602, 78 Stat. 528, 42 U.S.C 2942.

§ 1060.2-1 Applicability.

This subpart applies to all programs financially assisted under title II or III-B of the Economic Opportunity Act if such assistance is administered by the Office of Economic Opportunity.

§ 1060.2-2 Background.

In August 1967, OEO issued uniform income guidelines for all programs it funds which use income to determine program eligibility. These guidelines were derived from poverty thresholds developed from a definition of poverty prepared for statistical purposes by the Social Security Administration in 1964. In September 1968; January 1970; December 1970; November 1971, and October 1972 OEO issued new guidelines which reflected changes in these poverty thresholds.

§ 1060.2-3 Policy.

(a) The 1972 Amendments to the Economic Opportunity Act of 1964 require the following:

SEC. 625 (a) Every agency administering programs authorized by this act in which the poverty line is a criterion of eligibility shall revise the poverty line at annual intervals, or at any shorter interval it deems feasible and desirable.

(b) The revision required by paragraph (a) of this section shall be accomplished by multiplying the official poverty line (as defined by the Office of Management and Budget) by the average percentage change in the consumer price index during the annual or other interval immediately preceding the time at which the revision is made.

(c) Revisions required by paragraph (a) of this section shall be made and issued not more than 30 days after the date on which the necessary consumer price index data becomes available.

Pursuant to the above requirements the attached income poverty guidelines were prepared. These are based upon table M of Current Population Reports, P-60, No. 86, Bureau of the Census, December 1972, and the average percentage change in the Consumer Price Index from 1971 to 1972 as set forth in table C-44 of the Economic Report of the President, January 31, 1973.

(b) The following definitions, derived from the above census document, have been adopted by OEO for use with the attached poverty guidelines:

(1) *Income.*—Refers to total cash receipts before taxes from all sources. These include money wages and salaries before any deductions, but not including food or rent in lieu of wages. They include receipts from self-employment or from own farm or business after deductions for business or farm expenses. They include regular payments for public assistance, social security, unemployment and workmen's compensation, strike benefits from union funds, veterans benefits, training stipends, alimony, child support and military family allotments or other regular support from an absent family member or someone not living in the household; government employee pensions, private pensions and regular insurance or annuity payments; and income from dividends, interest, rents, royalties, or income from estates and trusts. For eligibility purposes, income does not refer to the following money receipts: Any assets drawn down as withdrawals from a bank, sale of property, house or car, tax refunds, gifts, one-time insurance payments or compensation for injury. Also to be disregarded is noncash income, such as the bonus value of food stamps, surplus food, the value of food and fuel produced and consumed on farms and the imputed value of rent from owner-occupied farm or nonfarm housing.

(2) *A farm residence.*—Is defined as any dwelling on a place of 10 acres or more with $50 or more annual sales of farm products raised there; or any place less than 10 acres having product sales of $250 or more.

(c) These new income guidelines are to be used for all those OEO-funded programs, whether administered by a grantee or delegate agency, which use OEO income poverty guidelines as admission standards. This revision of the income guidelines does not require current programs which have full enrollments to consider additional applicants. Agencies shall reflect the new income guidelines in reports required by OEO and submitted after April 1973. The new income guidelines do not supersede alternative standards of eligibility approved by OEO, such an State Title XIX standards used in programs funded by the Office of Health Affairs.

(d) These guidelines are also to be used in certain other instances where required by OEO as a definition of poverty; e.g., for purposes of data collection and for defining eligibility for allowances and reimbursements to board members. Agencies may wish to use these guidelines for other administrative and statistical purposes as appropriate.

Effective date.—This subpart shall become effective July 9, 1973.

HOWARD PHILLIPS,
Acting Director.

ATTACHMENT A

OEO POVERTY GUIDELINES FOR ALL STATES EXCEPT ALASKA AND HAWAII

Family size	Nonfarm family	Farm family
1	$2,900	$1,870
2	2,900	2,465
3	3,600	3,060
4	4,300	3,655
5	5,000	4,250
6	5,700	4,845
7	6,400	5,440

For families with more than 7 members, add $700 for each additional member in a nonfarm family and $600 for each additional member in a farm family.

OEO POVERTY GUIDELINES FOR ALASKA

Family size	Nonfarm family	Farm family
1	$2,750	$2,340
2	3,620	3,080
3	4,500	3,820
4	5,380	4,570
5	6,250	5,310
6	7,120	6,050
7	8,000	6,800

For families with more than 7 members, add $870 for each additional member in a nonfarm family and $740 for each additional member in a farm family.

OEO POVERTY GUIDELINES FOR HAWAII

Family size	Nonfarm family	Farm family
1	$2,530	$2,150
2	3,340	2,830
3	4,140	3,520
4	4,940	4,200
5	5,750	4,890
6	6,560	5,570
7	7,360	6,260

For families with more than 7 members add $800 for each additional member in a nonfarm family and $680 for each additional member in a farm family.

[FR Doc.73-11400 Filed 6-6-73;8:45 am]

Title 46—Shipping

CHAPTER II—MARITIME ADMINISTRATION, DEPARTMENT OF COMMERCE

SUBCHAPTER C—REGULATIONS AFFECTING SUBSIDIZED VESSELS AND OPERATORS

[General Order 111]

PART 278—EMPLOYMENT IN THE FOREIGN-TO-FOREIGN TRADE OF LIQUID AND DRY BULK VESSELS CONSTRUCTED WITH THE AID OF CONSTRUCTION-DIFFERENTIAL SUBSIDY

On January 29, 1973, the Maritime Subsidy Board (Board) published in the FEDERAL REGISTER (38 FR 2701; FR Doc. 73-1654) proposed regulations governing the extent to which liquid and dry bulk vessels constructed with the aid of construction-differential subsidy may be operated in trade between foreign ports. Comments were received and the Board has reviewed the subject and reached the following conclusions.

When the Merchant Marine Act of 1970 was enacted it was recognized that effective competition in the bulk cargo trades would require the carriage of cargo from one foreign port to another, and that the extent and frequency of such carriage would depend upon the nature of the vessels' operations, economic requirements and the terms of charter contracts which might require foreign-to-foreign commerce. If burdensome restrictions on the ability to trade freely are adopted, few if any U.S.-flag bulk vessels will be constructed since, as between an American vessel with burdensome trading restrictions and a foreign vessel with operational flexibility, operators and charterers will clearly prefer the latter even if the dollar price of construction is the same as a result of construction-differential subsidy. The Merchant Marine Act of 1970 amended section 905(a) of the Merchant Marine Act, 1936, to permit liquid and dry bulk carriers built with the aid of construction-differential subsidy to trade between foreign ports in a manner which would permit such vessels freely to compete with foreign-flag vessels. In 1972, Congress further amended that section to clarify that U.S.-flag bulk vessels should be permitted to engage in foreign-to-foreign trade in order to enable them to compete with foreign-flag vessels in obtaining charters subject to such rules and regulations as may be promulgated by the Secretary of Commerce. (Public Law 92-402).

The Board has concluded that it cannot realistically establish a specific minimum amount of carriage in the U.S. export-import commerce. Imposition of artificially created percentages of U.S. export-import trade is not only unrealistic, but may destroy the ability of the U.S. operator to compete with foreign-flag vessels. The Board believes, however, that if a U.S.-flag bulk vessel is not committed under the provisions of a long-term charter to engage only in foreign-to-foreign trade areas or if the nature of the business of the charterer is not such as to commit the vessel over an extended period to particular foreign-to-foreign trade, and the vessel is therefore free to be employed by the owner or the charterer to carry cargo to and from any port in the world, it is probable that it will be employed during a substantial portion of its economic life in carrying a significant volume of cargo in the U.S. export and/or import commerce. In this regard the Board takes cognizance of such considerations as: (1) Freight rates in the U.S. trade generally compare favorably with freight rates in foreign-to-foreign trade areas; (2) an increasing portion of world trade in bulk commodities moves in the U.S. export-import trade; and (3) there is a general tendency to employ ships in the trade of their national registry, all other things being equal, because of such factors as returning crews to their homeland, savings in crew repatriation and crew replacement costs, and effecting repairs in domestic shipyards. The Board realizes that short periods of employment in non-U.S. export-import commerce by subsidized bulk vessels may be desirable in order to insure their competitiveness in the world charter market. For this reason, the regulation permits vessels to be chartered for periods not to exceed 5 years for use in foreign-to-foreign commerce. The above requirement will allow the U.S.-flag bulk carrier maximum competitive flexibility to operate in non-U.S. export-import commerce under spot charters or time charters of no more than 5 years duration while insuring that vessels built with construction-differential subsidy will remain available for periodic use in the U.S. foreign trade, since one of the purposes of the U.S.-flag bulk vessel construction program is to serve the foreign trade of the United States.

Charters of more than 5 years' duration are permitted if the prior approval of the Assistant Secretary of Commerce for Maritime Affairs (Assistant Secretary) is obtained. In general, charters in excess of 5 years will be approved if, based upon the terms of the charter and taking into consideration the nature of the business of the charterer, the Assistant Secretary finds that the vessel may reasonably be expected to be employed to a significant extent during the period of the charter in the U.S. export/import charter or other relevent considerations, commerce. Where, under the terms of the it appears that the vessel will be committed to foreign-to-foreign trade, charters in excess of 5 years may be approved if the Assistant Secretary finds that such approval will provide demonstrable benefits under the maritime or other national policies of the United States.

An owner of a vessel built with construction-differential subsidy which charters its vessel for more than 5 years' duration without prior written approval of the Assistant Secretary subjects itself

to the payment of an amount representing repayment to the United States of a pro rata portion of the construction-differential subsidy paid on the vessel for the portion of the time during the period of the charter and any extension thereof that the vessel is engaged in the foreign-to-foreign trade, plus interest on that amount at 8 percent per annum.

A new part 278 is therefore added to subchapter C, title 46, chapter II, Code of Federal Regulations as follows:

Sec.
278.1 Statutory provision; section 905(a), Merchant Marine Act, 1936, as amended.
278.2 Scope of the regulation.
278.3 Definitions.
278.4 Charter approval required.
278.5 Failure to secure prior approval.
278.6 Additional requirements.

AUTHORITY.—Section 204 of the Merchant Marine Act, 1936, as amended (49 Stat. 1987, as amended; 46 U.S.C. 1114).

§ 278.1 Statutory provision; section 905(a), Merchant Marine Act, 1936, as amended.

SEC. 905. When used in this act—(a) The words "foreign commerce" or "foreign trade" mean commerce or trade between the United States, its territories or possessions, or the District of Columbia, and a foreign country, except that in the context of section 607 of this act concerning capital construction funds and in the context of title V of this act concerning construction-differential subsidy, the said words "foreign commerce" or "foreign trade" shall also include, in the case of liquid and dry bulk cargo carrying services, trading between foreign ports in accordance with normal commercial bulk shipping practices in such manner as will permit U.S.-flag bulk vessels freely to compete with foreign-flag bulk carrying vessels in their operation or in competing for charters, subject to rules and regulations promulgated by the Secretary of Commerce pursuant to section 204(b) of this act.

§ 278.2 Scope of the regulation.

The rules of this part govern the extent to which liquid and dry bulk vessels constructed with the aid of construction-differential subsidy may be employed in the foreign-to-foreign trade. Owners of such vessels operating under charters for periods in excess of 5 years must submit their charters to the Assistant Secretary for approval prior to execution. In general, charters in excess of 5 years will be approved if, based upon the terms of the charter and taking into consideration the nature of the business of the charterer, the Assistant Secretary finds that the vessel may reasonably be expected to be employed to a significant extent during the period of the charter in the U.S. export-import commerce. Where, under the terms of the charter or other relevant considerations, it appears that the vessel will be committed to foreign-to-foreign trade, charters in excess of 5 years may be approved if the Assistant Secretary finds that such approval will provide demonstrable benefits under the maritime or other national policies of the United States.

§ 278.3 Definitions.

(a) *Act.*—The term "Act" shall mean the Merchant Marine Act, 1936, as amended.

(b) *Assistant Secretary.*—The term "Assistant Secretary" shall mean the Assistant Secretary of Commerce for Maritime Affairs or his authorized representative pursuant to the act or to any reorganization plan, organizational order, administrative order or regulation published thereunder. Charters, and any questions, requests or supplemental information may be submitted to the Assistant Secretary through the Secretary, Maritime Administration, Department of Commerce, Washington, D.C. 20235.

(c) *Bulk vessel.*—The term "bulk vessel" shall mean a vessel which is built to carry solid, liquid, or gaseous commodities not normally shipped in bags or rigid containers and which are normally contained in the vessel's storage spaces bound only by the ship's structure.

(d) *Charter.*—The term "charter" shall mean any agreement between two or more parties which governs the operations in which the vessel may engage, including extensions of original charter period, any subcharters, or subsequent agreements.

(e) *Foreign-to-foreign commerce.*—The term "foreign-to-foreign commerce" shall mean that portion of foreign commerce referred to in section 905(a), Merchant Marine Act, 1936, as amended, in which cargo is carried by U.S.-flag bulk vessels between foreign ports.

(f) *Statutory life.*—The term "statutory life" shall mean the statutory life of a vessel under section 503, Merchant Marine Act, 1936, as amended, and Public Law 86-518, as amended by Public Law 88-225.

§ 278.4 Charter approval required.

(a) *Charters in excess of 5 years.*—Charters on vessels subject to the regulation of this part which exceed 5 years' duration or which may be extended beyond 5 years' duration by exercise of an option either within the charter or contained in a separate agreement shall be submitted to the Assistant Secretary for his review and approval at least 30 days prior to execution of such charter by the parties. No such charter shall take effect without the prior written approval of the Assistant Secretary.

(b) *Charters of 5 years or less.*—Charters on vessels subject to the regulation of this part which do not exceed 5 years' duration and which contain no provisions for extension beyond 5 years need not be submitted to the Assistant Secretary for approval unless otherwise specifically required by agreement. Vessels operating under such charters are free to engage in foreign-to-foreign commerce without approval of the Assistant Secretary.

(c) *Approval required during statutory life of vessel.*—The regulation of this part applies only during the statutory life of a vessel. After the expiration of that period, the vessel may be chartered for employment in the foreign-to-foreign trade regardless of the duration of the charter period without the approval of the Assistant Secretary.

§ 278.5 Failure to secure prior approval.

The owner of any vessel upon which a charter is executed in violation of this part shall be liable to pay to the Board an amount which bears the same proportion to the total construction-differential subsidy paid on the vessel as the period of each voyage leg in the foreign-to-foreign trade bears to the statutory life of the vessel. For this purpose a ballast leg between two cargo-carrying voyage legs in the foreign-to-foreign trade will be treated as a voyage leg in the foreign-to-foreign trade. A ballast leg between a cargo-carrying voyage leg in the foreign-to-foreign trade and a cargo-carrying voyage leg in the U.S. export-import trade will be treated as a voyage leg in the U.S. export-import trade. The amount due shall be payable within 90 days after the termination of the calendar year in which the voyage or voyages in the foreign-to-foreign trade occurred. Interest on all amounts payable shall accrue at a rate of 8 percent per annum from the date of delivery of the vessel until payment thereof is made.

§ 278.6 Additional requirements.

(a) *Submissions required with each application for approval.*—The owner shall submit, as part of any application for the approval of a charter, a statement of the reasons why such application should be approved and factual information in support of such reasons. The Assistant Secretary may request such additional information from the owner or operator as he may require to act on the application.

(b) *Use of business records.*—The Assistant Secretary may from time to time request that an owner or operator of bulk vessels constructed with the aid of construction-differential subsidy submit records of ship movements.

(c) *Certification of compliance.*—Within 15 days after the end of each calendar year, owners subject to the regulation of this part shall certify that during the previous calendar year the regulated vessels were operated in compliance with these regulations.

Effective date.—This regulation shall be effective on June 7, 1973.

NOTE.—The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with 44 U.S.C. 3501-3511.

Dated: May 29, 1973.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary,
Maritime Subsidy Board.

[FR Doc.73-11409 Filed 6-6-73;8:45 am]

[General Order 116, Revised, Amendment 4]

PART 294—OPERATING-DIFFERENTIAL SUBSIDY FOR BULK CARGO VESSELS ENGAGED IN CARRYING BULK, RAW AND PROCESSED AGRICULTURAL COMMODITIES FROM THE UNITED STATES TO THE UNION OF SOVIET SOCIALIST REPUBLICS

Determination of Subsidy

The following regulation governs procedures to be utilized by the Maritime Subsidy Board for computation of the excess United States cost of ship supplies, stores and expendable equipment

over the estimated cost of the same items of expense for a typical foreign-flag vessel for purposes of determining operating-differential subsidy payment.

Because the operating-differential subsidy program is exempt from the rulemaking procedures required by 60 Stat. 238, section 4, as amended (5 U.S.C. 553) and because of the need for immediate guidance to those holding subsidy contracts under this part, the rule is issued in final form.

Section 294.6(b)(5) of Title 46, Chapter II, Code of Federal Regulations is amended to read as follows:

§ 294.6 **Determinations of subsidy.**

* * * * *

(b) *U.S. costs.* * * *

(5) *Stores, supplies and expendable equipment.*—The cost of stores, supplies and expendable equipment attributable to the subsidized voyage shall be:

(i) The average cost per operating day of stores, supplies and expendable equipment expenses for the subsidized vessel for the 3-year period preceding the current year adjusted to the current cost level by application of the U.S. Wholesale Price Index of Total Manufacturers, for vessels that have been owned by the operator, or a holding company, affiliate, subsidiary, or associate, for 3 years preceding the current year, or

(ii) The fair and reasonable cost per operating day of stores, supplies and expendable equipment expenses for the subsidized vessel as determined by the Board, for vessels that have not been under such ownership for the 3-year period.

* * * * *

This regulation shall be effective on June 7, 1973.

(Sec. 104, 49 Stat. 1987, as amended, 46 U.S.C. 1114.)

Dated June 4, 1973.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary,
Maritime Subsidy Board.

[FR Doc.73-11408 Filed 6-6-73;8:45 am]

Title 49—Transportation

CHAPTER I—DEPARTMENT OF TRANSPORTATION

SUBCHAPTER B—OFFICE OF PIPELINE SAFETY

[Amendment 192-14; Docket No. OPS-3E]

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

Odorization of Gas in Transmission Lines

The purpose of this amendment is to extend the period of time during which the interim Federal safety standards applicable to gas odorization in transmission lines may remain in effect in those States now requiring such odorization.

On August 29, 1972, the Office of Pipeline Safety (OPS) issued amendment 192-7 (37 FR 17970). That amendment provided that the interim Federal standards on odorization, in effect in States requiring the odorization of gas in transmission lines, were to remain in effect until June 1, 1973, or the date upon which the distribution companies in those States were odorizing gas in accordance with § 192.625, whichever occurred earlier.

As explained in the preamble to amendment 192-7, the extension there provided was for the purpose of allowing time to carry out a rulemaking proceeding for odorization of gas in transmission lines. At the present time, that proceeding is being implemented and by January 1, 1974, the OPS anticipates it will be complete so that the interim standards can be allowed to lapse.

Since the regulatory provisions that are affected by this amendment are presently in effect, and since this amendment will impose no additional burden on any person, I find that notice and public procedure thereon are impractical and unnecessary and that good cause exists for making it effective on less than 30 days notice.

In consideration of the foregoing § 192.625(g)(1) of title 49 of the Code of Federal Regulations is amended, effective June 1, 1973, to read as follows:

§ 192.625 **Odorization of gas.**

* * * * *

(g) * * *

(1) January 1,1974; or

* * * * *

This amendment is issued under the authority of section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1672), § 1.58(d) of the regulations of the Office of the Secretary of Transportation (49 CFR 1.58(d)), and the redelegation of authority to the Director, Office of Pipeline Safety, set forth in appendix A of part 1 of the regulations of the Office of the Secretary of Transportation (49 CFR, pt. 1).

Issued in Washington, D.C. on May 31, 1973.

JOSEPH C. CALDWELL,
Director,
Office of Pipeline Safety.

[FR Doc.73-11359 Filed 6-6-73;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Rev. S.O. 1138]

PART 1033—CAR SERVICE

Colorado and Southern Railway Co. and Colorado & Wyoming Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 31st day of May 1973.

It appearing, that in Finance Dockets Nos. 26945 and 27022 the Colorado & Wyoming Railway Co. (C. & W.) was given contingent authority to construct and operate a line of railroad approximating 2.5 miles in length in Pueblo County, Colo., extending from a point in the vicinity of milepost 124 of the jointly owned main track of the Atchison, Topeka & Santa Fe Railway Co. (ATSF) and the Colorado & Southern Railway Co. (C. & S.) to the Comanche electric generating plantsite of the Public Service Co. of Colorado, subject to the granting of trackage rights over this line to the C. & S.; and the granting of trackage rights to the C. & W. over certain jointly owned ATSF-C. & S. trackage in the vicinity of ATSF-C. & S. milepost 124 in order to provide a connection between the aforedescribed C. & W. trackage and other C. & W. trackage;

And it further appearing, that there is immediate need for the operations by the C. & S. and the C. & W. over these C. & W. tracks and by the C. & W. over these joint ATSF-C. & S. tracks for the movement of equipment and coal to the aforementioned newly established electric generating station; that such operations by these carriers over these tracks are necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1138 **Service Order No. 1138.**

(a) The Colorado & Southern Railway Co. authorized to operate over tracks of the Colorado & Wyoming Railway Co. The Colorado & Wyoming Railway Co. authorized to operate over jointly owned tracks of the Atchison, Topeka & Santa Fe Railway Co. and the Colorado & Southern Railway Co.: The Colorado & Southern Railway Co. (C. & S.) be, and it is hereby, authorized to operate unit-coal trains over tracks of the Colorado & Wyoming Railway Co., in Pueblo County, Colo., between a point in the vicinity of milepost 124 of the jointly owned main track of the Atchison, Topeka & Santa Fe Railway Co. (ATSF) and the C. & S., and the Comanche electric generating station of the Public Service Co. of Colorado, a distance of approximately 2.5 miles.

(b) The C. & W. be, and it is hereby, authorized to operate over a newly constructed track between a point in the vicinity of milepost 124 of the jointly owned main track of the ATSF and the C. & S., and the aforementioned Comanche electric generating station; and to operate over jointly owned tracks of the ATSF-C. & S. in the vicinity of milepost 124, located in Pueblo County, Colo., to effect a connection between the above-described Comanche power plant extension of the C. & W. and other tracks of the C. & W.

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

(d) *Rates applicable.*—Inasmuch as these operations by the C. & S. over tracks of the C. & W. and by the C. & W. over its newly constructed tracks, and

over jointly owned tracks of the ATSF–C. & S. are deemed to be due to carriers' disabilities, the rates applicable to traffic moved by the C. & S. over these tracks of the C. & W. and by the C. & W. over these jointly owned tracks of the ATSF–C. & S., shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(e) *Effective date.*—This order shall become effective at 11:59 p.m., June 1, 1973.

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

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

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

By the Commission, Railroad Service Board.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.73-11393 Filed 6-6-73;8:45 am]

[S.O. 1139]

PART 1033—CAR SERVICE

Atchison, Topeka & Santa Fe Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 31st day of May 1973.

It appearing, that the Atchison, Topeka & Santa Fe Railway Co. (ATSF) is unable to operate over its line between Manchester, Kans., and Minneapolis, Kans., because of track damage; that numerous shippers served by the ATSF between Minneapolis and Barnard, Kans., are hereby deprived of vital railroad service; that the Union Pacific Railroad Co. (UP) has consented to operation by the ATSF over its line between Solomon, Kans., and Minneapolis; that such operation by the ATSF over the aforementioned tracks of the UP will enable the ATSF to continue to provide rail service to shippers located on its line between Minneapolis and Barnard and is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1139 Service Order No. 1139.

(a) *The Atchison, Topeka & Santa Fe Railway Co. authorized to operate over tracks of Union Pacific Railroad Co.* The Atchison, Topeka & Santa Fe Railway Co. (ATSF) be, and it is hereby, authorized to operate over tracks of the Union Pacific Railroad Co (UP) between Solomon, Kans., and Minneapolis, Kans., a distance of approximately 23 miles.

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

(c) *Rates applicable.*—Inasmuch as this operations by the ATSF over tracks of the UP is deemed to be due to carrier's disability, the rates applicable to traffic moved by the ATSF over the tracks of the UP shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.*—This order shall become effective at 12:01 a.m., June 1, 1973.

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

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

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

By the Commission, Railroad Service Board.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.73-11394 Filed 6-6-73;8:45 am]

Title 7—Agriculture

Subtitle A—Office of the Secretary

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Miscellaneous Amendments

This document realines delegations of authority from the Secretary of Agriculture to general officers, and delegations of authority from general officers to Department agency heads.

There are also codified for the first time delegations related to farmers home and rural development activities of the Department. Other minor revisions and corrections are included for clarification of previously issued delegations.

Part 2 of subtitle A of title 7 of the Code of Federal Regulations is amended as follows:

Subpart C—Delegations of Authority to the Under Secretary, Assistant Secretaries, and Directors

Sec.
2.15 Delegations of authority to the Under Secretary.
2.16 Reservations of authority.
2.17 Delegations of authority to the Assistant Secretary for Marketing and Consumer Services.
2.18 Reservations of authority.
2.19 Delegations of authority to the Assistant Secretary for Conservation, Research, and Education.
2.20 Reservations of authority.
2.21 Delegations of authority to the Assistant Secretary for International Affairs and Commodity Programs.
2.22 Reservations of authority.
2.23 Delegations of authority to the Assistant Secretary for Rural Development.
2.24 Reservations of authority.
2.25 Delegations of authority to the Assistant Secretary for Administration.
2.26 Reservations of authority.
2.27 Delegations of authority to the Director of Agricultural Economics.
2.28 Reservations of authority.

Subpart D—Delegations of Authority to Other General Officers and Agency Heads

2.31 Delegations of authority to the General Counsel.
2.32 Delegations of authority to the Director of Communication.
2.33 Delegations of authority to the Inspector General.
2.34 Reservations of authority.
2.35 Delegations of authority to the Judicial Officer.
2.41 Designation to the Office of Administrative Law Judges.

Subpart G—Delegation of Authority by the Assistant Secretary for Conservation, Research, and Education

2.57 Administrator, Agricultural Research Service.
2.58 Administrator, Cooperative State Research Service.
2.59 Administrator, Extension Service.
2.60 Chief, Forest Service.
2.61 Director, National Agricultural Library.
2.62 Administrator, Soil Conservation Service.

Subpart I—Delegations of Authority by the Assistant Secretary for Rural Development

2.70 Administrator, Farmers Home Administration.
2.71 Administrator, Rural Development Service.
2.72 Administrator, Rural Electrification Administration.

AUTHORITY.—5 U.S.C. 301 and Reorganization Plan No. 2 of 1953.

1. Section 2.4 is revised to read as follows:

§ 2.4 General officers.

The work of the Department is under the supervision and control of the Secretary, who is assisted by the following general officers: The Under Secretary, the Assistant Secretary for International Affairs and Commodity Programs, the Assistant Secretary for Marketing and Consumer Services, the Assistant Secretary for Rural Development, the Assistant Secretary for Conservation, Research, and Education, the Assistant Secretary for Administration, the Director of Agricultural Economics, the General Counsel, the Inspector General,

the Judicial Officer, and the Director of Communication.

2. Section 2.5 is revised to read as follows:

§ 2.5 Order in which Assistant Secretaries shall serve as Acting Secretary.

Pursuant to Executive Order 10481, dated August 15, 1953 (18 FR 4944), the Assistant Secretaries in the order named shall perform the duties of the office of the Secretary in case of the absence, sickness, resignation, or death of both the Secretary of Agriculture and the Under Secretary:

Assistant Secretary for International Affairs and Commodity Programs.
Assistant Secretary for Marketing and Consumer Affairs.
Assistant Secretary for Rural Development.
Assistant Secretary for Conservation, Research, and Education.

§ 2.7 [Amended]

3. Section 2.7 is revised by adding the following language after the last sentence of the section: Subject to the general supervision of the Secretary, agency heads delegated authority from a general officer report to and are under the supervision of that general officer.

§ 2.17 [Amended]

4. In § 2.17, paragraph (b)(10) change reference "(19 U.S.C. 1206)" to read "(19 U.S.C. 1306)." Also in paragraph (b)(13) delete the words "and Public Law 92–152."

§ 2.18 [Amended]

5. Section 2.18, in paragraph (b)(1) after the reference to 21 U.S.C. 114a, add the reference "114c."

6. Section 2.18, in paragraph (b)(2) delete the concluding words "as amended by Public Law 92–152."

7. Sections 2.19 and 2.20 are revised to read as follows:

§ 2.19 Delegations of authority to the Assistant Secretary for Conservation, Research, and Education.

The following delegations of authority are made by the Secretary for Agriculture to the Assistant Secretary for Conservation, Research, and Education, who is responsible for the coordination of research and environmental quality activities throughout the Department, and for representing the Department on the Federal Council for Science and Technology. He is also responsible for providing research coordination and effective working relationships with other public and private science organizations and for ensuing consideration of the needs of action agencies by research, extension, and library programs.

(a) *Related to agricultural research.*—(1) Conduct research concerning domestic animals and poultry, their protection and use, causes of contagious, infectious and communicable diseases and means for the prevention and cure of the same (7 U.S.C. 391).

(2) Conduct research related to the dairy industry and dissemination of information for the promotion of the dairy industry (7 U.S.C. 402).

(3) Conduct research at Mandan, N. Dak., and Lewisburg, Tenn., concerning dairy livestock breeding, growing, and feeding, and other problems pertaining to the establishment of dairy and livestock industries (7 U.S.C. 421–422).

(4) Conduct research on new uses for cotton and on cotton ginning and processing (7 U.S.C. 423–424).

(5) Conduct research into the basic problems of agriculture in its broadest aspects, including, but not limited to, production, marketing (other than statistical and economic research but including consumer and food economic research), distribution, processing, utilization of plant and animal commodities, problems of human nutrition, development of markets for agricultural commodities, discovery, introduction, and breeding of new crops, plants, and animals both foreign and native; conservation development, and development of efficient use of farm buildings, homes, and farm machinery, including the application of electricity and other forms of power (7 U.S.C. 427, 1621–1627, 2201, 2204).

(6) Administer a program for the improvement of poultry, poultry products, and hatcheries (7 U.S.C. 429).

(7) Advance the livestock and agricultural interests of the United States including the breeding of horses suited to the needs of the United States (7 U.S.C. 437).

(8) Enter into agreements with and receive funds from any State or political subdivision, organization, or person for the purpose of conducting cooperative research projects (7 U.S.C. 450a).

(9) Make grants to State agricultural experiment stations, colleges, universities, other research institutions and organizations and Federal and private organizations and individuals for research to further the programs of the Department (7 U.S.C. 450i).

(10) Maintain four regional research laboratories and conduct research at such laboratories to develop new scientific, chemical, and technical uses and new and extended markets and outlets for farm commodities and products and by-products (7 U.S.C. 1292).

(11) Conduct a special cotton research program designed to reduce the cost of producing upland cotton in the United States (7 U.S.C. 1441–note).

(12) Administer and coordinate a foreign contracts and grants program of market development research in the physical and biological sciences under section 104(b)(1) of the Agricultural Trade, Development, and Assistance Act of 1954, but excluding agricultural economics research; and administer and coordinate a foreign contracts and grants program of agricultural and forestry research under section 104(b)(3) of such act (7 U.S.C. 1704(b), (1), (3)).

(13) Conduct research in tropical and subtropical agriculture for the improvement and development of tropical and subtropical food products for dissemination and cultivation in friendly countries as provided by the Food for Peace Act of 1966 (7 U.S.C. 1736(a)(4)).

(14) Conduct research to develop and determine methods of humane slaughter of livestock (7 U.S.C. 1904).

(15) Conduct research related to soil and water conservation, engineering operations and methods of cultivation to provide for the control and prevention of soil erosion (7 U.S.C. 1010, 16 U.S.C. 590a).

(16) Maintain a national arboretum for purposes of research and education concerning tree and plant life (20 U.S.C. 191–194).

(17) Conduct research on foot-and-mouth disease and other animal diseases (21 U.S.C. 113a).

(18) Conduct research on control and eradication of cattle grubs (screwworms) (21 U.S.C. 144e).

(19) Conduct research and technical studies of farm dwellings and other buildings for the purpose of reducing costs and adapting and developing fixtures and appurtenances for more efficient and economical farm use (42 U.S.C. 1476(b)).

(20) Make grants for the support of basic scientific research at nonprofit organizations whose primary purpose is the conduct of scientific research (42 U.S.C. 1891).

(21) Administer the Virgin Islands agricultural research program (48 U.S.C. 1409m–o).

(22) Conduct research related to the use of domestic agricultural commodities for the manufacture of any material determined to be strategic and critical or substitute therefore, under section 7(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98f).

(b) *Related to cooperative State research.*—(1) Administer the Hatch Act of 1887, as amended (7 U.S.C. 361a–361i).

(2) Administer the act of October 10, 1962, as amended (16 U.S.C. 582a—582a–7).

(3) Make grants under section 2 of the act of August 4, 1965 (7 U.S.C. 450i).

(4) Administer the act of July 22, 1963 (7 U.S.C. 390–390k).

(5) Maintain a current research information system for all research work units of USDA and research projects of cooperating institutions receiving USDA funds.

(6) Maintain a research referral office for the effective review and coordination of all USDA-supported research work units.

(7) Administer research programs under title V of the Rural Development Act of 1972 (7 U.S.C. 2661–2668).

(c) *Related to extension service.*—(1) Administer the Smith-Lever Act, as amended (7 U.S.C. 341–349).

(2) Conduct educational and demonstration work under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627).

(3) Conduct educational and demonstration work in cooperative farm forestry program conducted under section 5 of the act of June 7, 1924, as amended (16 U.S.C. 568).

(4) Provide educational and technical assistance to persons not receiving financial assistance under title 5 of the Housing Act of 1949 (42 U.S.C. 1476).

(5) Administer sections 109–111 of the District of Columbia Public Education Act, as amended, relating to Cooperative Extension programs in the District of Columbia (D.C. Code section 31–1609–1611).

(6) Authorize the use of the 4–H Club name and emblem (18 U.S.C. 707).

(7) Coordinate all educational activities of the Department.

(8) Act as the liaison between the Department and officials of the land-grant colleges and universities on all matters relating to Cooperative Extension work and educational activities relating thereto.

(9) Provide educational leadership for the Department's farm safety educational program.

(10) Serve as a focal point for the Department in contacts and working relationships with national town-country church leaders and denominational and interdenominational church organizations.

(11) Provide leadership and direct assistance to the Cooperative Extension Service in planning, conducting, and evaluating Extension programs with Indians under a memorandum of agreement with the Bureau of Indian Affairs dated May 1956.

(12) Administer information and educational services essential to carrying out preemergency and emergency USDA defense operations through the Cooperative Extension Service.

(13) Exercise responsibilities of the Secretary under regulations dealing with Equal Employment Opportunity in the Cooperative Extension Service (pt. 18 of this subtitle).

(14) Provide educational support of resource development programs in rural areas and cooperate with other Federal and State agencies, private organizations and groups in providing information concerning assistance available for resource development programs.

(15) Represent the Department in dealings with international organizations and foreign countries on matters related to Extension education methods, programs, and organizations.

(16) Administer extension programs under title V of the Rural Development Act of 1972, Public Law 92–419 (7 U.S.C. 2661–2668).

(17) Represent the Department on the Federal Interagency Council on Education.

(d) *Related to forest service.*—(1) Provide national leadership in forestry.—(As used here and elsewhere in this section the term "forestry" encompasses the tangible physical resources such as forests, forest-related rangeland, grassland, brushland, woodland, alpine areas, minerals, water areas, wildlife habitat, and less tangible forest-related values such as outdoor recreation, wilderness, scenery, air and water quality, economic strength, and social well-being.)

(2) Protect, manage, and administer the national forests, national forest purchase units, national grasslands, and other lands and interests in lands administered by the Forest Service, which collectively are hereby designated as the National Forest System, including the acquisition and disposition of lands and interests in lands as may be required in these programs.

(3) Conduct research programs to provide fundamental knowledge and technology for improved policy decisions and improved professional management of forest and range ecosystems; increased efficiency in timber production; forest soils and watersheds; range, wildlife, and fish habitat management; forest recreation; environmental forestry; forest fire; forest insects; forest diseases; forest products utilization; forest engineering; forest resource surveys; forest products marketing; and forest economics.

(4) Administer the programs of cooperation in the protection, planning, development, conservation, multiple-purpose management, and utilization of forest and related resources.

(5) Administer forest insect, disease, and other pest control and eradication programs.

(6) Administer programs under section 23 of the Federal Highway Act (23 U.S.C. 101(a), 202(b), 204(a)–(e), 205 (a)–(d), 317).

(7) Exercise the custodianship of lands and interests in lands under lease or contract of sale to States and local agencies pursuant to title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–1012).

(8) Administer under such general program criteria and procedures as may be established by the Soil Conservation Service, the forestry aspects of subdivisions (i), (ii), and (iii) of this subparagraph on the National Forest System and rangelands within national forest boundaries and adjacent rangelands which are administered under formal agreement, and other forest lands.

(i) Cooperative river basin surveys and investigations program (16 U.S.C. 1006).

(ii) Eleven authorized watershed improvement programs and emergency flood prevention measures program under the Flood Control Act (33 U.S.C. 701b–1).

(iii) Small watershed protection program under the Pilot Watershed Protection and Watershed Protection and Flood Prevention Acts (67 Stat. 214 and 16 U.S.C. 1001–1009).

(9) Provide assistance to the Agricultural Stabilization and Conservation Service in connection with the rural environmental assistance program, the naval stores conservation program, and the cropland conversion program, as authorized by sections 7–17 of the Soil Conservation and Domestic Allotment Act, as amended (16 U.S.C. 590g–590q).

(10) Coordinate mapping work of the Department, including: (i) Clearing mapping projects to prevent duplication; (ii) keeping a record of mapping done by Department agencies; (iii) preparing and submitting required Departmental reports; (iv) serving as liaison on mapping with the Office of Management and Budget, Department of the Interior, and other departments and establishments; (v) promoting interchange of technical information, including techniques which may reduce costs or improve quality; and (vi) maintenance of the mapping records formerly maintained by the Office of Plant and Operations.

(11) Enter into research agreements (grants, contracts, agreements, and cooperative aid) under the provisions of 7 U.S.S. 450i; 42 U.S.C. 1891–1893; 16 U.S.C. 581; 7 U.S.C. 427i(a); and 7 U.S.C. 1624, for the support of applied and/or basic scientific research in forestry activities.

(12) Provide assistance to the Farmers Home Administration in connection with grants and loans under authority of the Consolidated Farm and Rural Development Act, 7 U.S.C. 1923; and consultation with the Department of Housing and Urban Development under the authority of 40 U.S.C. 461(e).

(13) Exercise responsibility, under such general program criteria and procedures as may be established by the Soil Conservation Service in connection with the forestry aspects of the resource conservation and development program authorized by title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011 (e)).

(14) Administer the radio frequency licensing work of the Department, including: (i) Representation of the Department on the Interdepartmental Radio Advisory Committee and its Frequency Assignment Subcommittee, in the office of the Director of Telecommunications Management; (ii) establishing policies, standards, and procedures for allotting and assigning frequencies within the Department and for obtaining effective utilization of them: (iii) providing licensing action necessary to assign radio frequencies for use by the agencies of the Department and maintenance of the records necessary in connection therewith; and (iv) providing inspection of the Department's radio operations to insure compliance with national and international regulations and policies for radio frequency use.

(15) Administer the Youth Conservation Corps Act (42 U.S.C. precede 2711 note) for the Department of Agriculture.

(16) Establish and operate the Job Corps Civilian Conservation centers on national forest lands as authorized by title I, sections 106 and 107, of the Economic Opportunity Act of 1964 (42 U.S.C. 2716–2717), in accordance with the terms of an agreement dated May 11, 1967, between the Secretary of Agriculture and the Secretary of Labor; and administration of other cooperative manpower training and work experience programs where the Forest Service serves as host or prime sponsor with other departments of Federal, State, or local governments.

(17) Administer the Volunteers in the National Forests Act of 1972 (16 U.S.C. 558a–558d, 558a note).

(18) Render the decisions of the Secretary in class 2 and 3 cases in appeals from the Chief, Forest Service, pursuant to §§ 211.22(a)(3) and 211.28, title 36, Code of Federal Regulations.

(19) Provide wildfire protection assistance.

(e) *Related to the national agricultural library.*—(1) Acquire and preserve all information concerning agriculture.

(2) Formulate immediate and long-range library policies, procedures, practices, and technical standards necessary for acquisition, cataloging, loan, bibliographic, and reference service to meet the needs of scientific, technical, research, and administrative staffs of the Department, both in Washington and the field.

(3) Evaluate special library programs developed for agencies of the Department; exercising such controls as are needed to coordinate library services in the Department and to avoid duplication of effort.

(4) Provide consultative service in library science and documentation, including systems for information storage and retrieval, to Department officials.

(5) Coordinate scientific and technical information activities of the Department.

(6) Coordinate the collection policy and program of the National Agricultural Library with the Library of Congress and the National Library of Medicine.

(7) Represent the Department on library and science information matters before congressional committees, professional societies, international organizations; and cooperate with other Government agencies, and educational institutions on all matters relating to library services.

(8) Make grants under section 2 of the act of August 4, 1965 (7 U.S.C. 450i).

(9) Make copies of bibliographies prepared by the library, prepare microfilm and other photographic reproductions of books and other library materials in the Department, and sell such bibliographies and reproductions at cost.

(10) Organize and coordinate a national agricultural science information system (network) for procuring, preserving, and diffusing agricultural information.

(11) Accept gifts and order disbursement from the Treasury under the act of December 28, 1970 (7 U.S.C. 2264, 2265).

(f) *Related to soil conservation activities.*—(1) Provide national leadership in the conservation, development, and productive use of the Nation's soil, water, and related resources. Such leadership encompasses soil, water, plant, and wildlife conservation; small watershed protection and flood prevention; and resource conservation and development. Integrated in these programs are erosion control, sediment reduction, pollution abatement, land use planning, multiple use, improvement of water quality, and several surveying and monitoring activities related to environmental improvement. All are designed to assure (i) quality in the natural resource base for sustained use; (ii) quality in the environment to provide attractive, convenient, and satisfying places to live, work, and play; and (iii) quality in the standard of living based on community improvement and adequate income.

(2) Evaluate and coordinate land use policy.

(3) Administer the basic program of soil and water conservation under Public Law 46, 74th Congress, as amended, and related laws (16 U.S.C. 590a–f, 590i–1, 590q, 590q–1; 42 U.S.C. 3271–3274; 7 U.S.C. 2201), including:

(i) Technical assistance to land users in carrying out locally adapted soil and water conservation programs primarily through the conservation districts in the 50 States, Puerto Rico, and Virgin Islands, but also to communities, watershed groups, Federal and State agencies, and other cooperators including such assistance as:

(*a*) Comprehensive planning assistance in nonmetropolitan districts.

(*b*) Assistance in the field of income-producing recreation on rural non-Federal lands.

(*c*) Forestry assistance, as a part of total technical assistance, to private landowners and landusers when such services are an integral part of land management and such services are not available from a State agency; and forestry services in connection with windbreaks and shelter belts to prevent wind and water erosion of lands.

(*d*) Assistance in developing programs relating to natural beauty.

(*e*) Assistance to other Department agencies in connection with the administration of their programs, as follows:

(*i*) Agricultural Stabilization and Conservation Service in the development and technical servicing of certain programs, such as the rural environmental assistance program, water bank program, Appalachian regional development program, and other such similar conservation programs.

(*ii*) Farmers Home Administration in connection with its loan program.

(ii) Soil surveys, including:

(*a*) Providing leadership for the Federal part of the National Cooperative Soil Survey which includes conducting and publishing of soil surveys.

(*b*) Conducting soil surveys for resource planning and development.

(*c*) Performing the cartographic services essential to carrying out the delegated authorities, including furnishing photographs, mosaics, and maps.

(iii) Conducting and coordinating snow surveys and making water supply forecasts pursuant to Reorganization Plan No. 4 of 1940 (5 U.S.C. App.).

(iv) Operating plant materials centers for the assembly and testing of plant species in conservation programs, including the use, administration, and disposition of lands under the administration of the Soil Conservation Service for such purposes under title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–1011).

(v) Providing leadership in the inventorying and monitoring of soil, water, land, and related resources of the Nation.

(4) Administer the watershed protection and flood prevention programs including:

(i) The 11 authorized watershed projects under Public Law 534, 78th Congress, 33 U.S.C. 701b–1.

(ii) The Emergency Flood Control Work under section 216 of Public Law 516, 81st Congress, 33 U.S.C. 701b–1.

(iii) The cooperative river basin surveys and investigations programs under section 6 of Public Law 586, 83d Congress, 16 U.S.C. 1006. Representation on the Water Resources Council and river basin commissions created by Public Law 89–80, 42 U.S.C. 1962, and on river basin interagency committees.

(iv) The pilot watershed projects under Public Law 46, 74th Congress, 16 U.S.C. 590a–f, and Public Law 156, 83d Congress.

(v) The watershed protection and flood prevention program under Public Law 566, 83d Congress, as amended 16 U.S.C. 1001–1009, except for responsibilities delegated to the Assistant Secretary for Rural Development.

(vi) The joint investigations and surveys with the Department of the Army under Public Law 87–639, 16 U.S.C. 1009.

(5) Administer the Great Plains conservation program under Public Law 1201, 84th Congress, as amended 16 U.S.C. 590p(b).

(6) Administer the resource conservation and development program under Public Laws 46, 74th Congress, and 703, 87th Congress, as amended 16 U.S.C. 590a and 7 U.S.C. 1010–1011, except for responsibilities delegated to the Assistant Secretary for Rural Development.

(7) Responsibility for entering into long-term contracts for carrying out conservation and environmental measures in watershed areas.

(g) *Related to rural development activities.*—(1) Provide guidance and direction for the accomplishment of activities authorized under the Rural Development Act of 1972 by agencies under the control of the Assistant Secretary for Conservation, Research, and Education, coordinating the policy aspects thereof with the Assistant Secretary for Rural Development.

§ 2.20 Reservations of authority.

(a) *Related to agricultural research.*—(1) Designation of members of the advisory committee, under title III of the Research and Marketing Act of 1946 (7 U.S.C. 1628–1629).

(b) *Related to cooperative State research.*—(1) Appointing an advisory committee under section 6 of the act of October 10, 1962 (16 U.S.C. 582a–5).

(2) Withholding funds from States under section 5 and notification to the President thereof in accordance with section 7 of the Hatch Act of 1887, as amended (7 U.S.C. 361 e, g).

(3) Reapportioning funds under section 4 and apportioning funds under section 5 of the act of October 10, 1962 (16 U.S.C. 582 a–3, a–4).

(c) *Related to extension service.*—(1) Approving selection of State directors of extension.

(2) Final concurrence of Equal Employment Opportunity programs submitted under part 18 of this subtitle.

(3) Approving the memoranda of understanding between the land-grant universities and the Department of Agriculture.

(4) Withholding funds from States and sending notification thereof to the President in accordance with sections 5 and 6 of the Smith-Lever Act, as amended (7 U.S.C. 345–346).

(f) *Related to soil conservation activities.*—(1) Designation of new project areas in which the resource conservation and development program assistance will be provided.

§ 2.21 [Amended]

8. Section 2.21, Paragraph (d)(2) delete the words "Director of Science and Education" and insert in their place "Assistant Secretary for Conservation, Research, and Education."

9. Add new §§ 2.23 and 2.24 as follows:

§ 2.23 Delegations of authority to the Assistant Secretary for Rural Development.

The following delegations of authority are made by the Secretary of Agriculture to the Assistant Secretary for Rural Development:

(a) *Related to farmers home activities.*—(1) Administer the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), except (i) with respect to loans for rural electrification and telephone facilities and service delegated to the Assistant Secretary for Rural Development in paragraph (c)(2) of this section; and (ii) the authority contained in section 342 of said act, 7 U.S.C. 1013a. This delegation includes the authority to collect, service, and liquidate loans made or insured by the Farmers Home Administration, or its predecessor agencies, the Farm Security Administration, the Emergency Crop and Feed Loans Offices of the Farm Credit Administration, the Resettlement Administration, and the Regional Agricultural Credit Corporations of Washington, D.C.

(2) Administer title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.), except those functions pertaining to research.

(3) Administer the Rural Rehabilitation Corporation Trust Liquidation Act (40 U.S.C. 440 et seq.), and under trust, liquidation, and other agreements entered into pursuant thereto.

(4) Administer section 8, and those functions with respect to repayment of obligations under section 4, of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1006a, 1004).

(5) Administer the resource conservation and development program to assist in carrying out resource conservation and development projects in rural areas under section 32(e) of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011(e)).

(6) Administer loan programs in Appalachian region under sections 203 and 204 of the Appalachian Regional Development Act of 1965 (40 U.S.C., App. 204).

(7) Administer Farmers Home Administration assets conveyed in trust under the Participation Sales Act of 1966 (12 U.S.C. 1717).

(8) Administer the emergency loan program and the rural housing disaster program under sections 232, 234, and 253 of the Disaster Relief Act of 1970 (Public Law 91–606), the Disaster Relief Act of 1969 (Public Law 91–79), and under Public Law 92–385 approved August 16, 1972.

(9) Administer loans to homestead or desertland entrymen and purchasers of land in reclamation projects or to an entryman under the desertland law (7 U.S.C. 1006a and 1006b).

(10) Administer loans to Indian tribes and tribal corporations (25 U.S.C. 488–492).

(11) Administer financial assistance programs under part A of title III and part D of title I and the necessarily related functions in title VI of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2763–2768, 2841–2855, 2942, 2943(b), 2961) delegated by the Director of the Office of Economic Opportunity to the Secretary of Agriculture by documents dated October 23, 1964 (29 FR 14764), and June 17, 1968 (33 FR 9850), respectively.

(12) Administer the Federal Claims Collection Act of 1966 and joint regulations issued pursuant thereto by the Attorney General and the Comptroller General with respect to claims of the Farmers Home Administration (31 U.S.C. 951.952; 4 CFR, ch. II).

(13) Service, collect, settlement, and liquidation of:

(a) Deferred land purchase obligations of individuals under the Wheeler-Case Act of August 11, 1939, as amended (16 U.S.C. 590y), and under the item, Water Conservation and Utilization projects" in the Department of the Interior Appropriation Act, 1940 (53 Stat. 719) as amended.

(b) Puerto Rican Hurricane Relief loans under the act of July 11, 1956 (70 Stat. 525).

(c) Loans made in conformance with section 4 of the Southeast Hurricane Disaster Relief Act of 1965 (79 Stat. 1301).

(b) *Related to rural development.*—(1) Provide leadership and coordination within the executive branch of a nationwide rural development program utilizing the services of executive branch departments and agencies and the agencies, bureaus, offices, and services of the Department of Agriculture in coordination with rural development programs of State and local governments (sec. 526(b) of the Rev. Stat.) (7 U.S.C. 2204(b)).

(2) Coordinate activities relative to rural development within the Department of Agriculture in cooperation with assistant secretaries which have primary responsibilities for specific titles of the Rural Development Act of 1972, and allied legislation.

(3) Administer a national program of economic, social, and environmental research and analysis, statistical programs and associated service work related to rural people and the communities in which they live including rural industrialization; rural population and manpower; local government finance; income; development strategies; housing; social services and utilization; adjustments to changing economic and technical forces; and other related matters.

(4) Work with Federal agencies in encouraging the creation of rural community development organizations.

(5) Assist other Federal agencies in making rural community development organizations aware of the Federal programs available to them.

(6) Advise rural community development organizations of the availability of Federal assistance programs.

(7) Advise other Federal agencies of the need for particular Federal programs.

(8) Assist rural community development organizations in making contact with Federal agencies whose assistance may be of a benefit to them.

(9) Assist other Federal agencies and national organizations in developing means for extending their services effectively to rural areas.

(10) Assist other Federal agencies in designing pilot projects in rural areas.

(11) Conduct studies to determine how programs of the Department can be brought to bear on the economic development problems of the country and assure that local groups are receiving adequate technical assistance from Federal agencies or from local and State governments in formulating development programs and in carrying out planned development activities.

(12) Assist other Federal agencies in formulating manpower development and training policies.

(13) Authority to enter into contracts for the support of rural development.

(c) *Related to rural electrification and telephone service.*—(1) Administer the Rural Electrification Act of 1936, as amended (7 U.S.C. 901–950(b)).

(2) Administer the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) with respect to loans for rural electrification and telephone facilities and service.

§ 2.24 Reservations of authority.

The following authorities are reserved to the Secretary of Agriculture:

(a) *Related to farmers home activities.*—(1) Designation of areas in which emergency loans may be made (7 U.S.C. 1961).

§ 2.25 [Amended]

(10) In § 2.25, paragraph (e)(9)(xvii)(c) the word "contact" is revised to read "contract."

(11) In § 2.25, following paragraph (e)(10)(xi) the listing and numbering is revised to read as follows:

(e) * * *

(10) * * *

(xii) Retirement.
(xiii) Program evaluation.
(xiv) Social security.
(xv) Life insurance.
(xvi) Health benefits.
(xvii) Unemployment compensation.
(xviii) Employee safety.
(xix) Employee health programs.
(xx) Labor management relations.
(xxi) Intramanagement consultation.
(xxii) Security.
(xxiii) Discipline.
(xxiv) Equal employment opportunity.
(xxv) Complaints and grievances.
(xxvi) Appeals.

(12) In § 2.25, paragraph (f)(1)(iv) the word "progress" is revised to read "program."

13. Section 2.25, paragraph (g) is revised to read:

(g) *Related to committee management.*—(1) Serve as the Department's Committee Management Officer and establish and maintain departmentwide policies and procedures for the management of committees. This delegation includes the authority to:

(i) Consult with the Office of Management and Budget prior to the establishment or reestablishment of advisory committees.

(ii) Approve and sign the written certification that creation of the advisory committee is in the public interest and provide for the publication of such certification in the FEDERAL REGISTER, along with a description of the nature and purpose of the advisory committee, following the Office of Management and Budget's approval of the establishment of the committee.

(iii) Approve and sign the notice of renewal of advisory committees for publication in the FEDERAL REGISTER, following the Office of Management and Budget's occurrence in the renewal of the committees.

(iv) Assign responsibility for preparation of timely notice of meetings for publication in the FEDERAL REGISTER

(v) Approve charters for national advisory committees when in a format other than a Secretary's memorandum.

§§ 2.29 and 2.30 [Deleted]

(14) Sections 2.29 and 2.30 are deleted in their entirety.

§ 2.35 [Amended]

(15) In § 2.35, paragraph (a) the reference "Pursuant to the provisions of the act of April 4, 1970" is revised to read "Pursuant to the act of April 4, 1940."

§ 2.41 [Amended]

(16) In § 2.41(a), regarding the reference to "7 U.S.C. 601", remove the numeral "2."

§ 2.45 [Amended]

(17) In § 2.45, paragraph (a)(1)(ii) the word "evaluation" is revised to read "evaluate."

§ 2.51 [Amended]

(18) Section 2.51, paragraph (a)(13) the words "and Public Law 92–152" are deleted.

§ 2.52 [Amended]

(19) In § 2.52, paragraph (a) the words "subject to reservations in § 2.18(c)" are deleted.

§ 2.54 [Amended]

(20) In § 2.54, paragraph (a) the words "subject to reservations in § 2.18(e)" are deleted.

(21) Subpart G is revised to read as follows:

Subpart G—Delegations of Authority by the Assistant Secretary for Conservation, Research, and Education

§ 2.57 Administrator, Agricultural Research Service.

(a) *Delegations.*—Pursuant to § 2.19 (a), subject to reservations in § 2.20(a), the following delegations of authority are made by the Assistant Secretary for Conservation, Research, and Education to the Administrator, Agricultural Research Service:

(1) Conduct research concerning domestic animals and poultry, their protection and use, causes of contagious, infectious, and communicable diseases and means for the prevention and cure of the same (7 U.S.C. 391).

(2) Conduct research related to the dairy industry and dissemination of information for the promotion of the dairy industry (7 U.S.C. 402).

(3) Conduct research at Mandan, N. Dak., and Lewisburg, Tenn., concerning dairy livestock breeding, growing, and feeding, and other problems pertaining to the establishment of dairy and livestock industries (7 U.S.C. 421–422).

(4) Conduct research on new uses for cotton and on cotton ginning and processing (7 U.S.C. 423–424).

(5) Conduct research into the basic problems of agriculture in its broadest aspects, including, but not limited to, production marketing (other than statistical and economic research but including consumer and food economic research), distribution, processing, utilization of plant and animal commodities, problems of human nutrition, development of markets for agricultural commodities, discovery, introduction, and breeding of new crops, plants, and animal both foreign and native; conservation development, and development of efficient use of farm buildings, homes, and farm machinery, including application of electricity and other forms of power (7 U.S.C. 427, 1621–1627, 2201, 2204).

(6) Administer a program for the improvement of poultry, poultry products, and hatcheries (7 U.S.C. 429).

(7) Advancement of the livestock and agricultural interests of the United States including the breeding of horses suited to the needs of the United States (7 U.S.C. 437).

(8) Enter into agreements with and receive funds from any State or political subdivision, organization, or person for the purpose of conducting cooperative research projects (7 U.S.C. 450a).

(9) Make grants to State agricultural experiment stations, colleges, universities, other research institutions and organizations and Federal and private organizations and individuals for research to further the programs of the Department (7 U.S.C. 450i).

(10) Maintain four regional research laboratories and research at such laboratories to develop new scientific, chemical, and technical uses and new and extended markets and outlets for farm commodities and products and byproducts (7 U.S.C. 1292).

(11) Conduct a special cotton research program designed to reduce the cost of producing upland cotton in the United States (7 U.S.C. 1441–Note).

(12) Administer and coordinate a foreign contracts and grants program of market development research in the physical and biological sciences under section 104(b)(1) of the Agricultural Trade, Development, and Assistance Act of 1954, but excluding agricultural economics research; and administer and coordinate a foreign contracts and grants program of agricultural and forestry research under section 104(b)(3) of such act (7 U.S.C. 1704(b)(1), (3)).

(13) Conduct research in tropical and subtropical food products for dissemination and cultivation in friendly countries as provided by the Food for Peace Act of 1966 (7 U.S.C. 1736(a)(4)).

(14) Conduct research to develop and determine methods of humane slaughter of livestock (7 U.S.C. 1904).

(15) Conduct research related to soil and water conservation, engineering operations, and methods of cultivation to provide for the control and prevention of soil erosion (7 U.S.C. 1010, 16 U.S.C. 590a).

(16) Maintain a national arboretum for purposes of research and education concerning tree and plant life (20 U.S.C. 191–194).

(17) Conduct research on foot-and-mouth disease and other animal diseases (21 U.S.C. 113a).

(18) Conduct research on control and eradication of cattle grubs (screwworms) (21 U.S.C. 144e).

(19) Conduct research and technical studies of farm dwellings and other buildings for the purpose of reducing costs and adapting and developing fixtures and appurtenances for more efficient and economical farm use (42 U.S.C. 1476(b)).

(20) Make grants for the support of basic scientific research at nonprofit institutions of higher education or nonprofit organizations whose primary purpose is the conduct of scientific research (42 U.S.C. 1891).

(21) Administer the Virgin Islands agricultural research programs (48 U.S.C. 1409m–o).

(22) Conduct research related to the use of domestic agricultural commodities for the manufacture of any material determined to be strategic and critical or substitute therefore, under section 7(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98f).

§ 2.58 Administrator, Cooperative State Research Service.

(a) *Delegations.*—Pursuant to § 2.19 (b) subject to reservations in § 2.20(b), the following delegations of authority are made by the Assistant Secretary for Conservation, Research, and Education

to the Administrator, Cooperative State Research Service:

(1) Administer the Hatch Act of 1887, as amended (7 U.S.C. 361a–i).

(2) Administer the act of October 10, 1962, as amended (16 U.S.C. 582a—582a–7).

(3) Make grants under section 2 of the act of August 4, 1965 (7 U.S.C. 450i).

(4) Administer the act of July 22, 1963 (7 U.S.C. 390–390k).

(5) Maintain a current research information system for all research work units of USDA and research projects of cooperating institutions receiving USDA funds.

(6) Maintain a research referral office for the effective review and coordination of all USDA-supported research work units.

(7) Administer research programs under title V of the Research Development Act of 1972 (7 U.S.C. 2661–2668).

§ 2.59 Administrator, Extension Service.

(a) *Delegations.*—Pursuant to § 2.19 (c), subject to reservations in § 2.20(c), the following delegations of authority are made by the Assistant Secretary for Conservation, Research, and Education to the Administrator, Extension Service:

(1) Administer the Smith-Lever Act, as amended (7 U.S.C. 341–349).

(2) Conduct educational and demonstration work under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627).

(3) Conduct educational and demonstration work in the cooperative farm forestry program conducted under section 5 of the act of June 7, 1924, as amended (16 U.S.C. 568).

(4) Provide educational and technical assistance to persons not receiving financial assistance under title 5 of the Housing Act of 1949 (42 U.S.C. 1476).

(5) Administer sections 109–111 of the District of Columbia Public Education Act, as amended, relating to Cooperative Extension programs in the District of Columbia (D.C. Code, sec. 31–1609–1611).

(6) Authorize the use of the 4–H Club name and emblem (18 U.S.C. 707).

(7) Act as the liaison between the Department and officials of the land-grant colleges and universities on all matters relating to cooperative extension work and educational activities relating thereto.

(8) Provide educational leadership for the Department's farm safety educational program.

(9) Serve as a focal point for the Department in contacts and working relationships with national town-country church leaders and denominational and interdenominational church organizations.

(10) Provide leadership and direct assistance to the Cooperative Extension Service in planning, conducting, and evaluating extension programs with Indians under a memorandum of agreement with the Bureau of Indian Affairs dated May 1956.

(11) Administer information and educational services, essential to carrying out preemergency and emergency USDA defense operations through the Cooperative Extension Service.

(12) Exercise responsibilities of the Secretary under regulations dealing with Equal Employment Opportunity in the Cooperative Extension Service (pt. 18 of this subtitle).

(13) Provide educational support of resource development programs in rural areas and cooperate with other Federal and State agencies, private organizations and groups in providing information concerning assistance available for resource development programs.

(14) Represent the Department in dealings with international organizations and foreign countries on matters related to extension education methods, programs, and organizations.

(15) Administer extension programs under title V of the Rural Development Act of 1972 (Public Law 92–419) (7 U.S.C. 2661–2668).

(b) *Reservations.*—The following authorities are reserved to the Assistant Secretary for Conservation, Research, and Education:

(1) Coordination of all educational activities of the Department.

(2) Represent the Department on the Federal Interagency Council on Education.

§ 2.60 Chief, Forest Service.

(a) *Delegations.*—Pursuant to § 2.19 (d), the following delegations of authority are made by the Assistant Secretary for Conservation, Research, and Education to the Chief of the Forest Service:

(1) Provide national leadership in forestry. (As used here and elsewhere in this section the term "forestry" encompasses the tangible physical resources such as forests, forest-related rangeland, grassland, brushland, woodland, alpine areas, minerals, water areas, wildlife habitat, and less tangible forest-related values such as outdoor recreation, wilderness, scenery, air and water quality, economic strength, and social well-being.)

(2) Protect, manage, and administer the national forests, national forest purchase units, national grasslands, and other lands and interests in lands administered by the Forest Service, which collectively are hereby designated as the National Forest System, including the acquisition and disposition of lands and interests in lands as may be required in these programs.

(3) Conduct research programs to provide fundamental knowledge and technology, for improved policy decisions and professional management of forest and range ecosystems; increased efficiency in timber production; forest soils and watersheds; range, wildlife, and fish habitat management; forest recreation; environmental forestry; forest fire; forest insects; forest diseases; forest products utilization; forest engineering; forest resource surveys; forest products marketing; and forest economics.

(4) Administer the programs of cooperation in the protection, planning, development, conservation, multiple-purpose management, and utilization of forest and related resources.

(5) Administer forest insect, disease, and other pest control and eradication programs.

(6) Administer programs under section 23 of the Federal Highway Act (23 U.S.C. 101(a), 202(b), 204(a)–(e), 205(a)–(d), 317).

(7) Exercise the custodianship of lands and interests in lands under lease or contract of sale to States and local agencies pursuant to title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–1012).

(8) Administer, under such general program criteria and procedures as may be established by the Soil Conservation Service, the forestry aspects of subdivisions (i), (ii), and (iii) of this subparagraph on the National Forest System and rangelands within national forest boundaries and adjacent rangelands which are administered under formal agreement, and other forest lands.

(i) Cooperative river basin surveys and investigations program (16 U.S.C. 1006).

(ii) Eleven authorized watershed improvement programs and emergency flood prevention measures program under the Flood Control Act (33 U.S.C. 701b–1).

(iii) Small watershed protection program under the Pilot Watershed Protection and Watershed Protection and Flood Prevention Acts (67 Stat. 214 and 16 U.S.C. 1001–1009).

(9) Provide assistance to the Agricultural Stabilization and Conservation Service in connection with the rural environmental assistance program, the naval stores conservation program, and the cropland conversion program, authorized by sections 7–17 of the Soil Conservation and Domestic Allotment Act, as amended (16 U.S.C. 590g–590q).

(10) Coordinate mapping work of the Department, including: (i) Clearing mapping projects to prevent duplication; (ii) keeping a record of mapping done by department agencies; (iii) preparing and submitting required departmental reports; (iv) serving as liaison on mapping with the Office of Management and Budget, Department of the Interior, and other departments and establishments; (v) promoting interchange of technical information, including techniques which may reduce costs or improve quality; and (vi) maintenance of the mapping records formerly maintained by the Office of Plant and Operations.

(11) Enter into research agreements (grants, contracts, agreements, and cooperative aid) under the provisions of 7 U.S.C. 450i; 42 U.S.C. 1891–1893; and 16 U.S.C. 581; 7 U.S.C. 427i(a); and 7 U.S.C. 1624, for the support of applied and/or basic scientific research in forestry activities.

(12) Provide assistance to the Farmers Home Administration in connection with grants and loans under authority of the Consolidated Farm and Rural Development Act, 7 U.S.C. 1923; and consultation with the Department of Housing and

Urban Development under the authority of 40 U.S.C. 461(e).

(13) Exercise responsibility, under such general program criteria and procedures as may be established by the Soil Conservation Service in connection with the forestry aspects of the resource conservation and development program authorized by title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011(e)).

(14) Administer the radiofrequency licensing work of the Department, including: (i) Representing the Department on the Interdepartment Radio Advisory Committee and its Frequency Assignment Subcommittee, in the office of the Director of Telecommunications Management; (ii) establishing policies, standards, and procedures for allotting and assigning frequencies within the Department and for obtaining effective utilization of them; (iii) providing licensing action necessary to assign radiofrequencies for use by the agencies of the Department and maintenance of the records necessary in connection therewith; and (iv) providing inspection of the Department's radio operations to insure compliance with national and international regulations and policies for radiofrequency use.

(15) Administer the Youth Conservation Corps Act (42 U.S.C. Precede 2711 Note) for the Department of Agriculture.

(16) Establish and operate the Job Corps Civilian Conservation Centers on national forest lands as authorized by title I, sections 106 and 107 of the Economic Opportunity Act of 1964 (42 U.S.C. 2716–2717), in accordance with the terms of an agreement dated May 11, 1967, between the Secretary of Agriculture and the Secretary of Labor; and administration of other cooperative manpower training and work experience programs where the Forest Service serves as host or prime sponsor with other Departments of Federal, State, or local governments.

(17) Administer the Volunteers in the National Forests Act of 1972 (16 U.S.C. 558a–558d, 558a note).

(18) Provide wildfire protection assistance.

(b) *Reservations.*—The following authorities are reserved to the Assistant Secretary of Agriculture for Conservation, Research, and Education.

(1) The authority to issue regulations.

(2) The authority as a member of the National Forest Reservation Commission (16 U.S.C. 513).

(3) The making of recommendations to the President with respect to the transfer of lands pursuant to the provisions of subsection (c) of section 32 of title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011(a)).

(4) Making recommendations to the President for the establishing of national forests or parts thereof under the provisions of section 9 of the act of June 7, 1924 (16 U.S.C. 471).

(5) Giving final approval and submitting to the Congress the results of preliminary examinations and survey reports under the Flood Control Act of 1936, as amended and supplemented (33 U.S.C. 701a et seq.).

(6) Approving requests for apportionment of reserves pursuant to section 3679, Revised Statutes, as amended (31 U.S.C. 665), for forest pest control.

(7) Making recommendations to the President for the establishing of or adding to National Wild and Scenic Rivers System (16 U.S.C. 1271–1278); National Scenic Trails System (16 U.S.C. 1241–1249); and the National Wilderness Preservation System (16 U.S.C. 1131–1136).

(8) Signing of declarations of taking and requests for condemnation.

§ 2.61 Director, National Agricultural Library.

(a) *Delegations.*—Pursuant to § 21.19 (e), the following delegations of authority are made by the Assistant Secretary for Conservation, Research, and Education to Director, National Agricultural Library:

(1) Acquire and preserve all information concerning agriculture.

(2) Formulate immediate and long-range library policies, procedures, practices, and technical standards necessary for acquisition, cataloging, loan, bibliographic, and reference service to meet the needs of scientific, technical, research, and administrative staffs of the Department, both in Washington and the field.

(3) Evaluate special library programs developed for agencies of the Department; exercising such controls as are needed to coordinate library services in the Department and to avoid duplication of effort.

(4) Provide consultative service in library science and documentation, including systems for information storage and retrieval, to Department officials.

(5) Coordinate scientific and technical information activities of the Department.

(6) Coordinate the collection policy and program of the National Agricultural Library with the Library of Congress and the National Library of Medicine.

(7) Represent the Department on library and science information matters before congressional committees, professional societies, and international organizations; and cooperate with other Government agencies, and educational institutions on all matters relating to library services.

(8) Make grants under section 2 of the act of August 4, 1965 (7 U.S.C. 450i).

(9) Make copies of bibliographies prepared by the library, prepare microfilm and other photographic reproductions of books and other library materials in the Department, and sell such bibliographies and reproductions at cost.

(10) Organize and coordinate a national agricultural science information system (network) for procuring, preserving, and diffusing agricultural information.

(11) Accept gifts and order disbursement from the Treasury under the act of December 28, 1970 (7 U.S.C. 2264, 2265).

§ 2.62. Administrator, Soil Conservation Service.

(a) *Delegations.*—Pursuant to § 2.19 (f), subject to reservations in § 2.20(f) the following delegations of authority are made by the Assistant Secretary for Conservation, Research, and Education to the Administrator, Soil Conservation Service:

(1) Provide national leadership in the conservation, development, and productive use of the Nation's soil, water, and related resources. Such leadership encompasses soil, water, plant, and wildlife conservation; small watershed protection and flood prevention; and resource conservation and development. Integrated in these programs are erosion control, sediment reduction, pollution abatement, land use planning, multiple use, improvement of water quality, and several surveying and monitoring activities related to environmental improvement. All are designed to assure (i) quality in the natural resource base for sustained use; (ii) quality in the environment to provide attractive, convenient, and satisfying places to live, work, and play; and (iii) quality in the standard of living based on community improvement and adequate income.

(2) Participate in evaluating and coordinating land use policy.

(3) Administer the basic program of soil and water conservation under Public Law 46, 74th Congress, as amended, and related laws (16 U.S.C. 590 a–f, i–1, q, q–1; 42 U.S.C. 3271–3274; 7 U.S.C. 2201), including:

(i) Technical assistance to land users in carrying out locally adapted soil and water conservation programs primarily through the conservation districts in the 50 States, Puerto Rico, and Virgin Islands, but also to communities, watershed groups, Federal and State agencies, and other cooperators including such assistance as:

(*a*) Comprehensive planning assistance in nonmetropolitan districts.

(*b*) Assistance in the field of income-producing recreation on rural non-Federal lands.

(*c*) Forestry assistance, as a part of total technical assistance to private land owners and land users when such services are an integral part of land management and such services are not available from a State agency; and forestry services in connection with windbreaks and shelter belts to prevent wind and water erosion of lands.

(*d*) Assistance in developing programs relating to natural beauty.

(*e*) Assistance to other Department agencies in connection with the administration of their program, as follows:

(*i*) Agricultural Stabilization and Conservation Service in the development and technical servicing of certain programs, such as the rural environmental assistance program, water bank program, Appalachian regional development program and other such similar conservation programs.

(*ii*) Farmers Home Administration in connection with their loan programs.

(ii) Soil surveys, including:

(a) Providing leadership for the Federal part of the National Cooperative Soil Survey which includes conducting and publishing of soil surveys.

(b) Conducting soil surveys for resource planning and development.

(c) Performing the cartographic services essential to carrying out the functions of the Soil Conservation Service, including furnishing photographs, mosaics, and maps.

(iii) Conducting and coordinating snow surveys and making water supply forecasts pursuant to Reorganization Plan No. 4 of 1940 (5 U.S.C. App.).

(iv) Operating plant materials centers for the assembly and testing of plant species in conservation programs, including the use, administration, and disposition of lands under the administration of the Soil Conservation Service for such purposes under title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–1011).

(v) Providing leadership in the inventorying and monitoring of soil, water, land, and related resources of the Nation.

(4) Administer the watershed protection and flood prevention programs, including:

(i) The 11 authorized watershed projects under Public Law 534, 78th Congress, 33 U.S.C. 701b–1, except for responsibilities assigned to the Forest Service.

(ii) The emergency flood control work under section 216 of Public Law 516, 81st Congress, 33 U.S.C. 701b–1, except for responsibilities assigned to the Forest Service.

(iii) The cooperative river basin surveys and investigations programs under section 6 of Public Law 566, 83d Congress, 16 U.S.C. 1006, except for responsibilities assigned to the Forest Service. Representation on the Water Resources Council and river basin commissions created by Public Law 89–80, 42 U.S.C. 1962, and on river basin interagency committees.

(iv) The pilot watershed projects under Public Law 46, 74th Congress, 16 U.S.C. 590a–f, and Public Law 156, 83d Congress, except for responsibilities assigned to the Forest Service.

(v) The watershed protection and flood prevention program under Public Law 566, 83d Congress, as amended 16 U.S.C. 1001–1009, except for responsibilities assigned to the Farmers Home Administration and the Forest Service.

(vi) The joint investigations and surveys with the Department of the Army under Public Law 87–639, 16 U.S.C. 1009.

(5) Administer the Great Plains Conservation program under Public Law 1021, 84th Congress, as amended 16 U.S.C. 590p(b).

(6) Administer the Resource Conservation and Development program under Public Laws 46, 74th Congress, and 703, 87th Congress, as amended 16 U.S.C. 590a and 7 U.S.C. 1010–1011, except for responsibilities assigned to the Farmers Home Administration.

(7) Responsibility for entering into long-term contracts for carrying out conservation and environmental measures in watershed areas.

(b) *Reservations.*—The following authorities are reserved to the Assistant Secretary for Conservation, Research, and Education:

(1) Executing cooperative agreements and memoranda of understanding containing representations in the name of the Secretary or the Department of Agriculture as a whole, including the cooperation of the Department with conservation districts and other districts organized for soil and water conservation within the States, territories, and possessions.

(2) Giving final approval and transmitting to the Congress watershed work plans that require congressional approval; and approving and transmitting to the Congress comprehensive river basin reports.

(3) Giving approval for operation of designated Resource Conservation and Development areas; and approving additions to authorized projects.

(4) Land use policy evaluation and coordination.

§ 2.66 [Amended]

(22) Section 2.66, paragraph (a)(6) the reference to section "2.85" is revised to read "2.86".

(23) A new subpart I is added as follows:

Subpart I—Delegations of Authority by the Assistant Secretary for Rural Development

§ 2.70 Administrator, Farmers Home Administration.

(a) *Delegations.*—Pursuant to § 2.23 (a), subject to reservations in § 2.24(a), and subject to policy guidance and direction by the Assistant Secretary for Rural Development, the following delegations of authority are made by the Assistant Secretary for Rural Development to the Administrator, Farmers Home Administration:

(1) Administration of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) except (i) with respect to loans for rural electrification and telephone facilities and service delegated to the Administrator, Rural Electrification Administration in § 2.72(a)(2); and (ii) the authority contained in section 342 of said act, 7 U.S.C. 1013a. This delegation includes the authority to collect, service, and liquidate loans made or insured by the Farmers Home Administration or its predecessor agencies, the Farm Security Administration, the Emergency Crop and Feed Loans Offices of the Farm Credit Administration, the Resettlement Administration, and the Regional Agricultural Credit Corporations of Washington, D.C.

(2) Administration of title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.), except those functions pertaining to research.

(3) Administration of the Rural Rehabilitation Corporation Trust Liquidation Act (40 U.S.C. 440 et seq.), and under trust, liquidation, and other agreements entered into pursuant thereto.

(4) Administration of section 8, and those functions with respect to repayment of obligations under section 4, of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1006a, 1004).

(5) Administration of the Resource Conservation and Development loan program to assist in carrying out Resource Conservation and Development projects in rural areas under section 32(e) of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011(e)).

(6) Administration of loan programs in the Appalachian region under sections 203 and 204 of the Appalachian Region Development Act of 1965 (40 U.S.C. app. 204).

(7) Administration of Farmers Home Administration assets conveyed in trust under the Participation Sales Act of 1966 (12 U.S.C. 1717).

(8) Administration of the emergency loan programs and the rural housing disaster program under sections 232, 234, and 253 of the Disaster Relief Act of 1970 (Public Law 91–606), the Disaster Relief Act of 1969 (Public Law 91–79), and under Public Law 92–385 approved August 16, 1972.

(9) Administration of loans to homestead or desertland entrymen and purchasers of land in reclamation projects or to an entryman under the desertland law (7 U.S.C. 1006a and 1006b).

(10) Administration of loans to Indian tribes and tribal corporations (25 U.S.C. 488–492).

(11) Administer financial assistance programs under part A of title III and part D of title I and the necessarily related functions in title VI of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2763–2768, 2841–2855, 2942, 2943(b), 2961) delegated by the Director of the Office of Economic Opportunity to the Secretary of Agriculture by documents dated October 23, 1964 (29 FR 14764), and June 17, 1968 (33 FR 9850), respectively.

(12) Administer the Federal Claims Collection Act of 1966 and joint regulations issued pursuant thereto by the Attorney General and the Comptroller General with respect to claims of the Farmers Home Administration (31 U.S.C. 951, 953; 4 CFR, ch. II).

(13) Servicing, collection, settlement, and liquidation of:

(a) Deferred land purchase obligations of individuals under the Wheeler-Case Act of August 11, 1939, as amended (16 U.S.C. 590y), and under the item, "Water Conservation and Utilization Projects" in the Department of the Interior Appropriation Act, 1940 (53 Stat. 719, as amended).

(b) Puerto Rican hurricane relief loans under the act of July 11, 1956 (70 Stat. 525).

(c) Loans made in conformance with section 4 of the "Southeast Hurricane Disaster Relief Act of 1965." (79 Stat. 1301.)

(b) *Reservations.*—The following authorities are reserved to the Assistant Secretary for Rural Development:

(1) Making and issuing notes to the Secretary of the Treasury for the purposes of the Agricultural Credit Insurance Fund and the Rural Development Insurance Fund as authorized by the

Consolidated Farm and Rural Development Act (7 U.S.C. 1929, 1929(a)) and the Rural Housing Insurance Fund as authorized by title V of the Housing Act of 1949 (41 U.S.C. 1487).

§ 2.71 Administrator, Rural Development Service.

(a) *Delegations.*—Pursuant to § 2.23 (b), and subject to policy guidance and direction by the Assistant Secretary for Rural Development, the following delegations of authority are made by the Assistant Secretary for Rural Development to the Administrator, Rural Development Services:

(1) Provide leadership and coordination within the executive branch of a nationwide rural development program utilizing the services of executive branch departments and agencies and the agencies, bureaus, offices, and services of the Department of Agriculture in coordination with rural development programs of State and local governments. (Sec. 526 (b) of the Revised Statutes, 7 U.S.C. 2204(b).)

(2) Coordinate activities relative to rural development among agencies under the Assistant Secretary for Rural Development and, through appropriate channels, serve as the coordinating agency for other departmental agencies having primary responsibilities for specific titles of the Rural Development Act of 1972 and allied legislation.

(3) Administer a national program of economic, social, and environmental research and analysis, statistical programs, and associated service work related to rural people and the communities in which they live including rural industrialization; rural population and manpower; local government finance; income; development strategies; housing; social services and utilization; adjustments to changing economic and technical forces; and other related matters.

(4) Work with Federal agencies in encouraging the creation of rural community development organizations.

(5) Assist other Federal agencies in making rural community development organizations aware of the Federal programs available to them.

(6) Advise rural community development organizations of the availability of Federal assistance programs.

(7) Advise other Federal agencies of the need for particular Federal programs.

(8) Assist rural community development organizations in making contact with Federal agencies whose assistance may be of a benefit to them.

(9) Assist other Federal agencies and national organizations in developing means for extending their services effectively to rural areas.

(10) Assist other Federal agencies in designing pilot projects in rural areas.

(11) Conduct studies to determine how programs of the Department can be brought to bear on the economic development problems of the country and assure that local groups are receiving adequate technical assistance from Federal agencies or from local and State governments in formulating development programs and in carrying out planned development activities.

(12) Assist other Federal agencies in formulating manpower development and training policies.

(13) Authority to enter into contracts for the support of rural development.

§ 2.72 Administrator, Rural Electrification Administration.

(a) *Delegations.*—Pursuant to § 2.23 (c), and subject to policy guidance and direction by the Assistant Secretary for Rural Development, the following delegations of authority are made by the Assistant Secretary for Rural Development to the Administrator, Rural Electrification Administration:

(1) Administer the Rural Electrification Act, as amended (7 U.S.C. 901–950 (b)).

(2) Administer the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) with respect to loans for rural electrification and telephone facilities and service, except for the sale of insured loans pursuant to said act.

(b) *Reservations.*—The following authorities are reserved to the Assistant Secretary for Rural Development:

(1) Making requests and certifications to the Secretary of the Treasury in connection with fundings of the rural electrification and rural telephone programs under the Rural Electrification Act of 1936, as amended, and the Consolidated Farm and Rural Development Act.

(2) Approving acquisition of telephone lines, facilities, or systems financed by the rural telephone bank under 7 U.S.C. 948(a)(2).

§ 2.78 [Amended]

24. In § 2.78, paragraph (a)(9)(ii) the word "payment" is revised to read "repayment."

25. Section 2.78, following paragraph (a)(9)(xviii) is revised to read as follows:

(a) * * *

(9) * * *

(xviii) Authorize employment actions (accessions or extensions and transfers) for the following:

(*a*) Persons with criminal or immoral records.

(*b*) Persons separated for misconduct, delinquency, or resignation to avoid such action.

(*c*) Veterans with dishonorable or other than dishonorable discharge.

(xix) * * *

(xx) Authorize adverse actions for positions in GS–14, 15, and equivalent.

26. In § 2.78, following paragraph (a)(10)(xv) the listing and numbering is revised to read as follows:

(xvi) Health benefits.
(xvii) Unemployment compensation.
(xviii) Employee safety.
(xix) Employee health programs.
(xx) Labor management relations.
(xxi) Intramanagement consultation.
(xxii) Security.
(xxiii) Discipline.
(xxiv) Equal employment opportunity.
(xxv) Complaints and grievances.
(xxvi) Appeals.

§ 2.85 [Amended]

27. Section 2.85, paragraph (a), the words "Assistant Secretary for Rural Development and Conservation" are deleted and inserted in their place are the words "Director of Agricultural Economics."

§§ 2.90, 2.91, 2.92 and 2.93 [Deleted]

28. Subpart L, including §§ 2.90, 2.91, 2.92, and 2.93 are deleted in their entirety.

Effective date.—This document shall become effective on June 6, 1973.

NOTE.—The signature of the Secretary of Agriculture appearing hereunder is for approval of the delegations of authority under subparts A through D. The other signatures appearing hereunder are for approval of their respective delegations under subparts G, I, and J.

Dated May 30, 1973.

EARL L. BUTZ,
Secretary of Agriculture.

JOSEPH R. WRIGHT, JR.,
Assistant Secretary for Administration.

ROBERT W. LONG,
Assistant Secretary for Conservation, Research, and Education.

WILLIAM W. ERWIN,
Assistant Secretary for Rural Development.

[FR Doc.73-11248 Filed 6-6-73;8:45 am]

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

[Amendments 10, 7, 13, 3]

Free and Reduced Meals Programs for School Children

On February 14, 1973, there was published in the FEDERAL REGISTER (38 FR 4409) a notice of proposed rulemaking to amend the regulations governing the operation of the national school lunch program (7 CFR, pt. 210), the school breakfast and nonfood assistance programs and State administrative expenses (7 CFR, pt. 220), and the regulations for determining eligibility for free and reduced price meals (7 CFR, pt. 245). Responses to the proposed amendments were received from 381 individuals and organizations. The principal changes made from the proposed amendments are discussed below:

1. Section 210.4, Apportionment of funds to States. Five respondents took exception to the 8-cent national average payment for all lunches served. In accordance with Public Law 92–433, and in consideration of budget policy and program financing, the Secretary intends to prescribe 8 cents for such a payment in fiscal year 1974. Two respondents wanted the reference to "June 30, 1972", changed to "June 30 of the preceding fiscal year." However, this is a statutory requirement and cannot be changed by Federal regulations.

2. Section 210.5, Payments to States. One respondent pointed out that the provisions of paragraph (a) as proposed with respect to reimbursement conflicted with the "advance of funds" provision of § 210.13(e). This is a valid observation; therefore, paragraph (a) has been revised to assure consistency with § 210.13 (e).

3. Section 210.11, Reimbursement payments. Four respondents suggested that this section should be clarified. The Department believes that paragraph (b) is clear in terms of its relationship to § 210.4 with respect to setting a statewide average reimbursement rate of 8 cents for all lunches served which meet program standards. A State, on the other hand, may set its per lunch reimbursement at whatever level it chooses as long as no single rate exceeds 14 cents and the average Federal reimbursement does not exceed 8 cents for the fiscal year. The paragraph has been modified slightly to indicate that the maximum reimbursement rate of 14 cents applies to fiscal year 1973 and subsequent fiscal years. The Department wishes to make it clear that the new maximum rate of 14 cents in no way signifies an increase in the level of Federal reimbursement.

Six respondents objected to the elimination of the type C lunch beginning in fiscal year 1974. Available data clearly shows, however, that service of type C lunches is quite minimal and that such service is principally limited to Guam. Further, the performance funding system which replaces the apportionment system in fiscal 1974 makes no provision for financing type C lunches. Therefore, elimination of type C lunches beginning in fiscal year 1974 is deemed to be reasonable and consistent with the best interests of orderly program financing and mangement. Part 215 of the regulations for the special milk program for children has been appropriately modified to assure that Guam is eligible to receive milk program benefits as authorized in the Child Nutrition Act of 1966, as amended. This change did not appear in the proposed amendments, but it is included in the final amendments inasmuch as Guam is authorized under the statute to participate in the program.

4. Section 210.13, Reimbursement procedure. A few respondents had suggestions on the advance of funds provisions. These provisions are not intended to replace the normal claims procedure. Their purpose is to parallel the procedure in effect under the breakfast program and provide schools with financial flexibility before the claims cycle is completed and payment made. The reference to one month refers only to the amount of any one advance payment and not to the number of monthly advances any one school may receive.

5. Sections 210.15b and 220.11a, Competitive food services. There were 370 respondents who commented on some aspect of the competitive food service provisions. (Such service is generally defined as food served at the same time and place as the nonprofit lunch or breakfast programs.) Many of these respondents objected to the entire concept of permitting such service as provided under the terms set forth in section 7 of Public Law 92–433. A large number of respondents thought that the regulations should be clarified as to State and local authority in establishing rules restricting or permitting competitive food sales. Some wanted only nutritious foods to be allowed for sale. The final amendments have been revised, therefore, to make it clear that States and local school authorities must establish such regulations as are necessary to control the sale of food that is in competition with the school's nonprofit food service program. These revisions also provide that food service for profit shall not be authorized in the food service or lunchroom areas during the lunch period unless the proceeds from such service go to the benefit of the food service program, the school, or to a student organization approved by the school. The Department wishes to emphasize that transferring the responsibility for regulating or controlling competitive food sales to the States in no way diminishes the Department's continued interest in and concern for providing the Nation's school children with wholesome, nutritionus meals. The Department expects that administering State agencies and local school food authorities will continue to exercise prudent administration of school food service programs to assure every child maximum nutritional benefits.

6. Section 220.4, Apportionment of funds to States. Five respondents wanted rates of reimbursement for paid, free, and reduced price breakfasts specified in the new paragraph (a–1) of the regulations. In accordance with the provisions of the Child Nutrition Act of 1966, as amended, the Department intends to prescribe breakfast rates at the beginning of each fiscal year, after careful review of program requirements. A new paragraph (d) has been added to assure sufficient funds to States and regions to finance breakfast programs approved as especially needy.

7. Section 220.7, Requirements for participation. Nine respondents objected to the proposed recordkeeping requirements in paragraph (e)(12) for programs receiving standard rates of reimbursement, inasmuch as the cost of labor is reimbursable from Federal funds only in schools approved for assistance as especially needy. The final amendments provide, therefore, that separate records on breakfast program expenditures need not be maintained if the school maintains such records under § 210.8(e)(13)(iii) for the lunch program.

8. Section 220.24, Special responsibilities of State agencies. Six respondents objected to the requirement to keep a separate operating balance for the breakfast program. However, good management practice dictates that school food authorities should be able to determine the income, costs, and fund balances attributable to the breakfast program, though a separate accounting system need not be maintained. One respondent thought that provisions of paragraph (f) should be strengthened to require follow-up action when deficiencies were noted. The State has the responsibility as well as the authority under paragraph (c) of this section to initiate appropriate action to correct any program irregularities noted in its review of breakfast program operations.

9. Section 245.1, General purpose and scope. Based upon the comments received and a further review of this section, the Department believes that the section is unclear. It has been rewritten. Two respondents stated that the Secretary should issue the income poverty guidelines considerably earlier than May 15, the deadline established by statute. The Department recognizes the desirability of issuing such guidelines as soon as possible and endeavors to do so. One respondent objected to the States' 25 percent and 50 percent leeway above the Secretary's income poverty guidelines for free and reduced price meals as being insufficient. These percentages are established by law.

10. Section 245.3, Eligibility standards for free and reduced price meals. Ten respondents wanted to reinstate the discretionary hardship provisions in § 245.3. The Department believes, however, that the intent of section 9 of the National School Lunch Act, as amended (42 U.S.C. 1758) was to establish nationwide uniformity in lieu of local discretion and that the special hardship provisions specified in the Secretary's income poverty guidelines cover the basic situations adversely affecting family income.

11. Due to an oversight, § 245.4 was not proposed to be revoked in the February 14, 1973, amendment proposals. Public Law 92–433 requires that each child from a family at or below income poverty guidelines shall receive a free meal. Accordingly, § 245.4 is unnecessary.

12. Section 245.5 Public announcement of the eligibility standards. Ten respondents thought that the 10-day deadline for school food authorities to announce their approved eligibility standards was impracticable primarily because such announcement in most cases would occur during the summer when school was not in session. Consequently, the requirement was modified to permit announcement of eligibility standards at the beginning of the school year. At the request of one respondent, the word "sex" was added to the nondiscrimination statement in the notice to parents. Further changes were made in paragraph (a) to facilitate application for free and reduced price meals for foster children and under special hardship conditions.

13. Section 245.6, Applications for free and reduced price meals. Paragraph (a) was rewritten to conform to the changes made in § 245.5 pertaining to applications for foster children and special hardship conditions.

Four comments were received on § 245.6(c) objecting to the elimination of categorical certification of an identifiable group of children. The proposed revision is in accordance with the provisions of the National School Lunch

Act, as amended, which provide a basis for individual certification only and thus preclude categorical certification. Under the revised paragraph, school food authorities may approve an individual child for a free or reduced price meal based on information available which reasonably indicates that such child would be eligible for such a meal. In such a situation school officials shall complete and file an application for the child setting forth the basis of the child's eligibility. This is not to be construed as categorical certification. This paragraph has been further revised to permit a school food authority to certify a child as eligible for a free or reduced price meal when there is data on the family income levels of attending children available from other sources and such data indicates that a child would meet the school food authority's eligibility criteria for such meals. With this provision, the Department is extending the necessary authority to the local school administrator to assure that no eligible child is denied a free or reduced price meal. However, this authority must be exercised on an individual, case-by-case basis and not for categorical certification.

14. Section 245.9, Exemption for certain nonprofit private schools. Four respondents objected to the exemption of nonprofit private schools. Since the exemption is based on a statutory requirement, no change was made in the proposed language.

15. Section 245.10, Action by school food authorities. One respondent to paragraph (c) suggested that the 30-day period allowed for school food authorities to respond to changes be reduced to 15 days. The Department feels that the suggested change is too restrictive; hence the proposed language is unchanged.

Four respondents to paragraph (d) thought that the September 30 deadline for implementing an approved eligibility standard was unrealistic for school food authorities. However, since action for initiating annual changes in eligibility standard begins in July, the Department feels that sufficient time is allowed for development, submission, and approval of eligibility standards prior to September 30; hence the proposed language is unchanged. Subparagraph (3) of paragraph (a) was not included in the proposed regulations, but the Department has revised it to conform with changes set forth in § 245.6.

16. Section 245.11, Action by State agencies and FNSRO. Five respondents to paragraph (a)(2) advocated the certification of welfare families as automatically eligible for free or reduced price meals under State standards. Since categorical certification is not permissible under the authorizing legislation, the provision is unchanged. Four respondents objected to the July 1 date for announcement of a State's family-size income standard. The Department believes the July 1 announcement date is necessary to establish sufficient lead time for the approval and implementation process of the eligibility standards of school food authorities.

Seven respondents to paragraph (d) felt that the 5-day notification period was too short. After further consideration, the department concurs and has extended the period to 10 days.

Accordingly, the national school lunch program, special milk program for children, school breakfast and nonfood assistance programs and State administrative expenses regulations, and the regulations for determining eligibility for free and reduced price meals are amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. In § 210.4, the first sentences of paragraphs (a) and (b) are amended by deleting the words "any fiscal year" and substituting therefor the words "the fiscal year ending June 30, 1973"; the first sentence in paragraph (c) is revised by inserting the words "For the fiscal year ending June 30, 1973" at the beginning of the sentence, and a new paragraph (a–1) is added as follows:

§ 210.4 Apportionment of funds to States.

* * * * *

(a–1) For the fiscal year ending June 30, 1974, and each subsequent fiscal year, food assistance payments shall be made to each State agency, or FNSRO where applicable, from any Federal funds available for general cash-for-food assistance in an amount determined by multiplying the number of lunches meeting the lunch requirements set forth in § 210.10 served to children during such fiscal year in schools in the State which participate in the program under agreements with such State agency, or FNSRO where applicable, by a national average payment per lunch: *Provided, however,* That in any fiscal year such national average payment shall not be less than 8 cents per lunch and that the aggregate amount of the food assistance payments made to each State agency, or to nonprofit private schools in which FNS administers the program, for any fiscal year shall not be less than the amount of the payments made by the State agency, or FNS in nonprofit private schools in which FNS administers the program, to participating schools within the State for the fiscal year ending June 30, 1972, to carry out the purposes of this section 4. Such national average payment shall be prescribed by the Secretary at the beginning of each fiscal year.

* * * * *

2. In § 210.5, paragraph (a) is revised, and paragraphs (b), (c), and (c–1) are revoked, as follows:

§ 210.5 Payments to States.

(a) Funds made available to any State for general cash-for-food assistance or special cash assistance shall be made available by means of letters of credit issued by FNS to appropriate Federal Reserve Banks in favor of the State agency. Such letters of credit shall be designed to provide funds for the State agency for the operation of the program in such amounts and at such times as the funds are needed to make reimbursements or advances to school food authorities. As soon as practicable after funds are made available to FNS, FNS shall prepare a letter of credit for each State with which it has an approved agreement and an approved State plan of child nutrition operations. If funds have been authorized by Congress for the operation of the program under a continuing resolution, letters of credit shall reflect only the amounts authorized for the effective period of the resolution. The State agency shall obtain funds needed to make reimbursement or advances to school food authorities through presentation by designated State officials of a payment voucher on letter of credit (form FNS 218) to a local commercial bank for transmission to the appropriate Federal Reserve Bank in accordance with procedures prescribed by FNS and approved by the U.S. Treasury Department. The State agency shall draw only such funds as are needed to pay claims for reimbursement certified for payment or to advance funds under § 210.13(e) and shall use such funds without delay to pay such claims or to make such advance(s). State agencies shall report information on the status of program funds on a monthly basis to FNS on a form provided by FNS. For the fiscal year ending June 30, 1973, no section 32 funds made available for general cash-for-food assistance or special cash assistance purposes shall be expended by a State agency, or FNSRO where applicable, until the respective funds made available to it under the provisions of paragraphs (a) and (c), and of paragraphs (d) and (e) of § 210.4, have been expended.

(b) [Revoked].

(c) [Revoked].

(c–1) [Revoked].

* * * * *

3. In § 210.11, paragraph (b–2), is revised by deleting the words "and Type C" wherever they appear; and the first sentences of paragraphs (b) and (b–1) are revised and paragraphs (f) and (g) are revoked, as follows:

§ 210.11 Reimbursement payments.

* * * * *

(b) Beginning with the fiscal year ending June 30, 1973, the maximum rate of reimbursement from general cash-for-food assistance shall be 14 cents for a type A lunch. The maximum rate of reimbursement for a type C lunch shall be 2 cents: *Provided, however,* That beginning with the fiscal year ending June 30, 1974, no reimbursement shall be paid for a type C lunch.

(b–1) Within the maximum rate of reimbursement set forth in paragraph (b) of this section, in each fiscal year, the State agency, or FNSRO where applicable, shall initially assign rates of reimbursement at level which will permit reimbursement from the general cash-for-food assistance funds available under paragraphs (a), (a–1), (c), and (f) of § 210.4 to the State agency, or FNSRO where applicable, for the total number of type A lunches it is estimated will be served in participating schools in

the State in such fiscal year, except that, for the fiscal year ending June 30, 1973, any State agency which provides general cash-for-food assistance for type C lunches shall make appropriate downward adjustments in the payment for type A lunches within the State. At a minimum, the estimate of the number of type A lunches to be served in a fiscal year shall take into account the estimated number of such lunches to be served in schools which are expected to apply and be approved for participation in the program during such fiscal year and the estimated number of such lunches to be served in schools which participated in the preceding fiscal year.

* * * * *

(f) [Revoked]

(g) [Revoked]

4. In § 210.13, a new paragraph (e) is added, as follows:

§ 210.13 Reimbursement procedure.

* * * * *

(e) Notwithstanding any other provision of this section, the State agency, or FNSRO where applicable, may advance funds available for the program to a school food authority in an amount equal to the amount of reimbursement estimated to be needed for 1 month to make payments for the total number of lunches, including free and reduced price lunches, to be served to children in participating schools under the jurisdiction of the school food authority. The State agency, or FNSRO where applicable, shall require school food authorities who receive advances of funds under this paragraph to make timely submissions of claims for reimbursement on a monthly basis and shall suspend advances of funds in the absence of such timely submissions. Following the receipt of claims, the State agency, or FNSRO where applicable, shall make such adjustments as are necessary in such advances of funds to insure that the total amount of payments received by a school food authority for the fiscal year will not exceed an amount equal to the number of lunches, including free and reduced price lunches, served to children times the respective rates of payment assigned by the State agency, or FNSRO where applicable, in accordance with § 210.11. In no event shall an advance of funds be made by the State agency, or FNSRO where applicable, for the month of April in any fiscal year unless the school food authority has submitted claims covering operations through the month of February in such fiscal year and unless the amount of payment earned for the number of lunches, including free and reduced price lunches, served through February of such fiscal year is equal to at least 80 percent of the amount of the funds advanced to the school food authority for the operations through the month of March in such fiscal year. The advance may not be made more than 30 days prior to the last day of the month for which it is made.

5. Section 210.15b is revised to read as follows:

§ 210.15b Competitive food services.

State agencies and school food authorities shall establish such regulations or instructions as are necessary to control the sale of food in competition with a school's nonprofit food service under the program: *Provided, however,* That they shall not authorize food services for profit in the food service facilities and lunchroom areas during the lunch period unless the proceeds inure to the benefit of the school's nonprofit food service under the program, or to the school, or to school-approved student organizations.

(Catalog of Federal Domestic Assistance Program No. 10.555, National Archives Reference Services.)

PART 215—SPECIAL MILK PROGRAM FOR CHILDREN

6. Section 215.1 is revised to read as follows:

§ 215.1 General purpose and scope.

This part announces the policies and prescribes the general regulations with respect to the special milk program for children, under the Child Nutrition Act of 1966, as amended, and sets forth the general requirements for participation in the program. The act reads in pertinent part as follows:

SEC. 3. There is hereby authorized to be appropriated for the fiscal year ending June 30, 1970, and for each succeeding fiscal year, not to exceed $120 million, to enable the Secretary of Agriculture, under such rules and regulations as he may deem in the public interest, to encourage consumption of fluid milk by children in the United States in (1) nonprofit schools of high school grade and under, and (2) nonprofit nursery schools, child-care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children. For the purposes of this section United States means the 50 States, Guam, and the District of Columbia. The Secretary shall administer the special milk program provided for by this section to the maximum extent practicable in the same manner as he administered the special milk program provided for by Public Law 89-642, as amended, during the fiscal year ending June 30, 1969.

7. In § 215.2 paragraphs (l) and (y) are revised to read as follows:

§ 215.2 Definitions.

* * * * *

(l) Milk means unflavored milk which meets State and local standards for fluid whole milk and flavored milk made from fluid whole milk which meets such standards, except that, in those areas of Alaska, Hawaii, and Guam where a sufficient supply of fresh fluid whole milk cannot be obtained, milk shall include recombined or reconstituted fluid whole milk.

* * * * *

(y) State means any of the 50 States, Guam, and the District of Columbia.

* * * * *

8. In § 215.16, paragraph (e) is revised to read as follows:

§ 215.16 Program information.

* * * * *

(e) In the States of Alaska, Arizona, California, Guam, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming:

Western Regional Office, FNS, U.S. Department of Agriculture, 550 Kearny Street, room 400, San Francisco, Calif. 94108.

(Catalog of Federal Domestic Assistance Program No. 10.556, National Archives Reference Services.)

PART 220—SCHOOL BREAKFAST AND NONFOOD ASSISTANCE PROGRAMS AND STATE ADMINISTRATIVE EXPENSES

9. In § 220.4, paragraph (a) is amended by deleting the words "any fiscal year" and substituting therefor the words "the fiscal year ending June 30, 1973," and the first sentence in paragraph (c) is amended by inserting the words "for the fiscal year ending June 30, 1973" at the beginning of the sentence; and new paragraphs (a–1) and (d) are added, as follows:

§ 220.4 Apportionment of funds to States.

* * * * *

(a–1) For the fiscal year ending June 30, 1974, and each subsequent fiscal year, breakfast assistance payments shall be made to each State agency, or FNSRO where applicable, from any Federal funds available therefor, in an amount equal to the sum of the results obtained by (1) multiplying the number of breakfasts meeting the breakfast requirements set forth in § 220.8 served during such fiscal year to children in schools in the State which participate in the school breakfast program under agreements with such State agency, or FNSRO where applicable, by a national average breakfast payment; (2) multiplying the number of such breakfasts served free to children eligible for free breakfasts in such schools during such fiscal year by a national average free breakfast payment; and (3) multiplying the number of such breakfasts served at a reduced price to children eligible for reduced price breakfasts in such schools during such fiscal year by a national average reduced price payment: *Provided, however,* That in any fiscal year the aggregate amount of the breakfast assistance payments made to each State agency, or to FNSRO where applicable, for any fiscal year shall not be less than the amount of the payments made by the State agency, or FNSRO where applicable, to participating schools within the State for the fiscal year ending June 30, 1972, to carry out the purposes of this part. Such national average payments for breakfasts, free breakfasts, and reduced price breakfasts shall be prescribed by the Secretary at the beginning of each fiscal year.

* * * * *

(d) In addition to the funds made available under paragraph (a–1) of this section, funds shall be distributed to the State agencies, and FNSROs where ap-

plicable, in such amounts as are needed to finance reimbursement rates assigned in accordance with the provisions of paragraph (b–1) of § 220.9.

§ 220.5 [Amended]

10. In § 220.5, the last sentence is deleted.

11. In § 220.7, subdivision (iii) of paragraph (e)(12) is revised to read as follows:

§ 220.7 Requirements for participation.

* * * * *

(e) * * *

(12) * * *

(iii) *Breakfast program expenditures.*—Unless the school maintains records as required under § 210.8(e)(13)(iii) of this chapter, it shall maintain records on expenditures (supported by invoices, receipts, or other evidence of expenditure):

(*a*) For food;

(*b*) For labor;

(*c*) For all other supplies and services.

12. In § 220.11, the first sentence of subparagraph (10) of paragraph (b) is revised to read as follows:

§ 220.11 Reimbursement procedure.

* * * * *

(b) * * * (10) the per-meal cost of providing breakfast if the school is an especially needy school approved for reimbursement under the provisions of paragraph (b–1) of § 220.9 * * *.

* * * * *

13. Section 220.11a is revised to read as follows:

§ 220.11a Competitive food services.

State agencies and school food authorities shall establish such regulations or instructions as are necessary to control the sale of food in competition with a school's nonprofit food service under the school breakfast program: *Provided, however,* That they shall not authorize food services for profit in the food service facilities and lunchroom areas during the breakfast period unless the proceeds inure to the benefit of the school's nonprofit food service under the school breakfast program, or to the school, or to school-approved student organizations.

14. In § 220.24, a new paragraph (i) is added as follows:

§ 220.24 Special responsibilities of State agencies.

* * * * *

(i) Each State agency shall establish a system of accounting under which school food authorities shall report the information required in § 220.7(e). Such system shall permit determination of the operating balances available to school food authorities.

(Catalog of Federal Domestic Assistance Program No. 10.553, National Archives Reference Services)

PART 245—DETERMINING ELIGIBILITY FOR FREE OR REDUCED PRICE MEALS

15. The amendment published in the November 2, 1972, FEDERAL REGISTER (37 FR 23323) is renumbered amendment 2.

16. In part 245 references to "lunch" and "lunches" are hereby deleted wherever they appear, including the headings and the table of contents, and "meal" and "meals" are hereby substituted therefor. References to "Program" are hereby deleted and "National School Lunch Program and School Breakfast Program" are hereby substituted therefor.

17. Section 245.1 is revised to read as follows:

§ 245.1 General purpose and scope.

(a) Section 9 of the National School Lunch Act, as amended, and section 4 of the Child Nutrition Act of 1966, as amended, require that schools participating in the National School Lunch Program (7 CFR pt. 210) and the School Breakfast Program (7 CFR pt. 220), and other schools utilizing commodities donated by the Department shall serve free meals to any child who is a member of a household which has an annual income not above the applicable family-size income level set forth in the income poverty guidelines prescribed by the Secretary. Each State educational agency is required to prescribe family-size income guidelines, not more than 25 percent above the Secretary's income guidelines, to be used by schools in the State during each fiscal year in determining which children are eligible for a free meal. Each State educational agency is also required to prescribe family-size income guidelines, not more than 50 percent above the Secretary's income poverty guidelines, for use by schools which elect to serve reduced price meals to children. However, local income guidelines which exceed guidelines established by the State educational agency may continue to be used by school food authorities until July 1, 1973, if they were established prior to July 1972. School food authorities are required to publicly announce their income guidelines and to make determinations with respect to family income on the basis of a statement executed by an adult member of the family. School food authorities are prohibited from making any physical segregation of or other discrimination against any child eligible for a free or reduced price lunch, and no overt identification of any such child may be made.

(b) This part sets forth the responsibilities under these acts of State educational agencies, the Food and Nutrition Service regional offices, and school food authorities with respect to the establishment of income guidelines, determination of eligibility of children for free and reduced price meals, and assurance that there is no physical segregation of, or other discrimination against, or overt identification of children unable to pay the full price for meals.

18. In § 245.2, paragraphs (c), (d), (e), (f), and (g) are revised to read as follows:

§ 245.2 Definitions.

* * * * *

(c) "FNSRO where applicable" means the appropriate Food and Nutrition Service Regional Office when that agency administers the National School Lunch Program or the School Breakfast Program with respect to nonprofit private schools.

(d) "Free meal" means a meal for which neither the child nor any member of his family pays or is required to work in the school or in the school's food service.

(e) "Income poverty guidelines" means the family-size annual income levels prescribed annually by the secretary for use by States as the minimum family-size income levels for establishing eligibility for free meals.

(f) "Meal" means a lunch or a breakfast which meets the applicable requirements prescribed in §§ 210.10, 210.15a, and 220.8 of this chapter.

(g) "Reduced price meal" means a meal which meets all of the following criteria: (1) The price shall be less than the full price of the meal; (2) the price shall not exceed 20 cents for a lunch and 10 cents for a breakfast; and (3) neither the child nor any member of his family shall be required to supply an equivalent value in work for the school or the school's food service.

* * * * *

19. In § 245.3, a new sentence is added before the last sentence of paragraph (b), as follows:

§ 245.3 Eligibility standards for free and reduced price meals.

* * * * *

(b) * * *. Family income used by a school food authority in determining eligibility of an applicant shall be income as defined in the Secretary's income poverty guidelines, including the adjustments for special hardship conditions. * * *.

§ 245.4 [Revoked]

20. Section 245.4 is revoked.

21. In § 245.5, the opening paragraph and paragraph (a) are revised, as follows:

§ 245.5 Public announcement of the eligibility standards.

After the State agency, or FNSRO where applicable, notifies the school food authority that its standards for determining the eligibility of children for free and reduced price meals have been approved, the school food authority shall publicly announce such standards: *Provided, however,* That no such public announcement shall be required for boarding schools, or a school which includes food service fees in its tuition, where all attending children are provided the same meals. Such announcement shall be made at the beginning of each school year or, if notice of approval is given thereafter, within 10 days after the notice is received. The public announcement of such standards, as a minimum, shall include the following:

(a) A letter or notice distributed, on or about the beginning of each school year, to the parents of children in attendance at the school. Such letter or notice shall contain complete information on (1) the eligibility standards, in-

cluding all criteria, with respect to free meals and, if applicable, with respect to reduced price meals; (2) the four special hardship conditions for adjusting income; (3) how a family may make application for a free or reduced price meal for its children; (4) how a family may appeal the decision of the school food authority with respect to such application under the hearing procedure set forth in § 245.7; (5) a statement to the effect that, in certain cases, foster children are eligible for free or reduced price meals regardless of the income of the family with whom they reside, and that families wishing to apply for such meals for foster children should contact the local school officials; and (6) the statement: "In the operation of child feeding programs, no child will be discriminated against because of his race, sex, color, or national origin." The letter or notice shall be accompanied by a copy of the application form required under § 245.6.

* * * * *

22. In § 245.6, three new sentences are added following the third sentence in paragraph (a), paragraph (c) is revised, and paragraph (d) is revoked, as follows:

§ 245.6 Applications for free and reduced price meals.

(a) * * *. Other cash income would include cash amounts received or withdrawn from any source, including savings, investments, trust accounts, and other resources which would be available for payment of the price of a child's meals. The application shall also contain substantially the following statements: (1) "In certain cases foster children are eligible for free or reduced price meals regardless of your family income. If you have such children living with you and wish to apply for such meals for them, please contact us."; and (2) "If your gross family income exceeds the amount indicated in the family income scale as shown on the letter (or notice), and you wish to apply for free or reduced price meals for your children under any of the special hardship conditions cited in the letter (or notice), please complete this application form and also describe the nature of your hardship." Information requested in the application with respect to expenses shall be furnished by families whose income, but for the the special hardship provisions of the Secretary's income poverty guidelines, would be above the school's family-size income standards, and shall be limited to the expenses set forth in the Secretary's income poverty guidelines. * * *.

* * * * *

(c) After the letter to parents and the applications have been disseminated, the school food authority may determine, based on information available to it, that a child for whom an application has not been submitted meets the school food authority's eligibility criteria for free and reduced price meals. In such a situation, the school food authority shall complete and file an application for such child setting forth the basis of determining the child's eligibility. When a school food authority has obtained a determination of individual family income and family-size data from other sources, it need not require the submission of an application for any child from a family whose income would qualify for free or reduced price meals under the school food authority's established criteria. In such event, the school food authority shall notify the family that its children are eligible for free or reduced price meals. Nothing in this paragraph shall be deemed to provide authority for the school food authority to make eligibility determinations or certifications by categories or groups of children.

(d) [Revoked.]

23. Section 245.8 is revised to read as follows:

§ 245.8 Nondiscrimination practices for children eligible to receive free and reduced price meals.

School food authorities of schools participating in the National School Lunch Program or School Breakfast Program or of commodity-only schools shall take such actions as are necessary to assure that the names of children eligible to receive free or reduced price meals shall not be published, posted, or announced in any manner and to assure that there shall be no overt identification of any such children by the use of special tokens or tickets or by any other means. Children eligible for a free or reduced price meal shall not be required to work for their meal, use a separate dining area, go through a separate serving line, enter the dining area through a separate entrance, eat meals at a different time, or eat a different meal from the meal sold to children paying the full price of the meal.

24. Section 245.9 is revised to read, as follows:

§ 245.9 Exemption for certain nonprofit private schools.

The requirements of this part with respect to the amount charged for reduced price meals and with respect to the family-size income standards for free or reduced price meals shall not apply to any nonprofit private school participating in the National School Lunch Program or School Breakfast Program under an agreement with any State agency, or FNSRO where applicable, until the State agency, or FNSRO where applicable, has determined and notified the school food authority of such school that sufficient funds are available from sources other than children's payments to finance the cost of meeting such requirements. The school food authority of any such nonprofit private school shall provide to the State agency, or FNSRO where applicable, information in such form and by such date as the State agency, or FNSRO where applicable, shall request, which will be sufficient, together with other information available, for a determination to be made with respect to whether sufficient funds from sources other than children's payments are available to enable such school to meet the requirements of this part with respect to the amount charged for reduced price meals and with respect to family-size income standards for free and reduced price meals.

25. In § 245.10, paragraphs (a) (2) and (3) are revised and new paragraphs (c) and (d) are added, as follows:

§ 245.10 Action by school food authorities.

* * * * *

(a) * * *

(2) The family-size income guidelines to be used by schools under their jurisdiction in determining the eligibility of children for free and reduced price meals in accordance with the provisions of § 245.3.

(3) The specific procedures the school food authority will use in accepting applications from families for free and reduced price meals.

* * * * *

(c) If any free and reduced price policy statement submitted for approval by any school food authority to the State agency, or FNSRO where applicable, is determined to be not in compliance with the provisions of this part, the school food authority shall submit a policy statement that does meet such provisions within 30 days after notification by the State agency, or FNSRO where applicable. When revision of a school food authority's approved free and reduced price policy statement is necessitated because of a change in the family-size income standards of the State agency, or FNSRO where applicable, or because of other program change, the school food authority shall submit for approval to the State agency, or FNSRO where applicable, a revision of its free and reduced price policy statement no later than 30 days after the State agency, or FNSRO where applicable, has announced such change. Pending approval of a revision of a policy statement, an existing policy statement shall remain in effect.

(d) In no event shall any school food authority be reimbursed for any meals served after September 30 of any fiscal year, nor shall any commodities donated by the Department be used in any program after such date, unless the school food authority's free and reduced price policy statement has been approved by the State agency, or FNSRO where applicable.

26. In § 245.11, paragraphs (a), (d), (e), and (f) are revised to read as follows:

§ 245.11 Action by State agencies and FNSRO.

(a) State agencies, or FNSRO where applicable, shall, for schools under their jurisdiction: (1) Issue such instructions as are necessary to assure that school food authorities are fully informed of the provisions of this part and of the requirements for the filing and approval of free and reduced price policy statements. Such instructions may require school food authorities to establish the maximum price of a reduced price lunch

at a level below 20 cents and the maximum price of a reduced price breakfast at a level below 10 cents.

(2) Prescribe and publicly announce by July 1 of each fiscal year in accordance with § 245.3(a), family-size income standards which shall be applicable to all families, including welfare and other families receiving public assistance. Any such standards made by FNSRO with respect to nonprofit private schools shall be developed by FNSRO after consultation with the State agency.

* * * * *

(d) Not later than 10 days after the State agency, or FNSRO where applicable, announces its family-size income standards, it shall notify school food authorities in writing of any amendment to their free and reduced price policy statements necessary to bring the family-size income standards into conformance with the State agency's or FNSRO's family-size income standards.

(e) Except as provided in § 245.10, the State agency, or FNSRO where applicable, shall neither disburse any funds, nor authorize the distribution of commodities donated by the Department to any school unless the school food authority has an approved free and reduced price policy statement on file with the State Agency, or FNSRO where applicable.

(f) State Agencies, or FNSRO where applicable, shall review and evaluate the performance of school food authorities and of schools under the provisions of this part during the course of administrative reviews of nonprofit food service programs and by other means. They shall advise school food authorities of any deficiencies found and any corrective actions required.

§ 245.12 [Revoked]

27. Section 245.12 is revoked.

(Catalog of Federal Domestic Assistance Program Nos. 10.553 and 10.555, National Archives Reference Services.)

NOTE.—The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Effective date.—These amendments shall become effective June 7, 1973.

Dated June 4, 1973.

CLAYTON YEUTTER,
Assistant Secretary.

[FR Doc.73-11368 Filed 6-6-73;8:45 am]

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE, (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—SPECIAL PROGRAMS

[Amendment 1]

PART 777—PROCESSOR WHEAT MARKETING CERTIFICATE REGULATIONS

Adjustment to Interest Rate

On page 9436 of the FEDERAL REGISTER of April 16, 1973 (38 FR 9436), there was published a notice of proposed rulemaking to amend the republication of the "Processor Wheat Marketing Certificate Regulations" (36 FR 21256). This amendment changes the interest rate applicable under the regulations from 6½ to 7½ percent per annum. This change is deemed necessary in view of recent upward adjustments in interest rates announced by commercial banks and other lending institutions.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed amendment. No objections or comments have been received. Accordingly, the proposed amendment is hereby adopted without change effective as set forth below.

Effective date.—The change in interest shall be effective with respect to interest which first begins to accrue on and after July 1, 1973.

Signed at Washington, D.C., on May 31, 1973.

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

The amendment of 7 CFR part 777 would read as follows:

The interest rate is changed to read "seven and one-half percent per annum" rather than "six and one-half percent per annum" in the applicable sections as follows:

Section 777.7(b), the last sentence;
Section 777.11(b), subparagraph (2);
Section 777.11(c), subparagraphs (2) (i) and (ii);
Section 777.11(e), subparagraph (2);
Section 777.12(g), the penultimate sentence;
Section 777.19(f), subparagraph (2);
Section 777.19(j), the last sentence.

[FR Doc.73-11365 Filed 6-6-73;8:45 am]

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

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Disposition of Certain Off-Grade Raisins

Notice was published in the May 16, 1973, issue of the FEDERAL REGISTER (38 FR 12814), regarding a proposal to amend Subpart—Administrative Rules and Regulations (7 CFR 989.101–989.176; 38 FR 10074, 13012) to increase the liquidated damages prescribed in § 989.159(a)(2)(iii) on unauthorized disposition of certain off-grade raisins from $200 per-ton to $400 per-ton, and to increase the maximum amount prescribed in § 989.166(f) by which the committee may adjust a handler's share of an offer of reserve raisins from 2 tons to 10 tons. Said proposal was unanimously recommended by the Raisin Administrative Committee, hereinafter referred to as the "Committee."

The subpart is operative pursuant to the marketing agreement, as amended, and order No. 989, as amended (7 CFR, pt. 989), regulating the handling of raisins produced from grapes grown in California. The amended marketing agreement and order, hereinafter referred to collectively as the "order," are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons an opportunity to submit written data, views, or arguments on the proposal. None were received.

Section 989.59(f) of the order provides, in part, that the committee shall establish, with the approval of the Secretary, such rules and procedures as may be necessary to insure adequate control over off-grade raisins, other failing raisins, and raisin residual material. Pursuant to that authority, § 989.159(g)(2) provides, in part, that any handler may ship, transfer, or otherwise dispose of off-grade raisins, other failing raisins, and raisin residual material to or at points within the continental United States (other than Alaska) for use in eligible nonnormal outlets only after filing with the committee a written application to make such shipment, transfer or other disposition and receiving its written approval thereof. Section 989.159(g)(2)(iii) provides that such application shall include a provision for liquidated damages wherein the handler in consideration of the committee approving his application agrees that in the event any raisins or raisin residual material covered by the approved application should be shipped to points outside of the continental United States or to Alaska, or disposed of in other than eligible nonnormal outlets, that he shall pay to the committee the sum of $200 as liquidated damages for each ton so shipped or disposed of. The committee concluded that the sum of $200 per-ton is not reflective of the value of raisins in recent years and has therefore recommended that such sum be increased to $400 per-ton.

Section 989.67(d)(5) provides that whenever a handler's share or allocation is less than or exceeds his holdings of reserve tonnage by a minor quantity, the committee may adjust the handler's share or allocation to avoid the cost of physical transfer. Said section also provides that the maximum quantity by which a handler's share or allocation may be adjusted shall be prescribed in rules and procedures established by the committee with the approval of the Secretary. Section 989.166(f) provides, in part, that a handler's share of an offer of reserve tonnage may be adjusted by not more than 2 tons so as to avoid the cost involved in the physical transfer of raisins.

The recent amendment of the order provided for reoffers of reserve tonnage remaining unsold from regular offers and provided that the committee could sell additional reserve tonnage raisins to a handler whose regular allocation of such tonnage would provide insufficient tonnage to fill a containerized shipping container. These changes may cause

greater inbalances between a handler's share of a reserve offer and his physical inventory of reserve tonnage raisins than have occurred in the past. Furthermore, increased operating expenses, including the cost of labor and transportation, have made the cost of transporting small quantities of raisins prohibitive. Based upon these reasons, the committee concluded that the 2-ton limit on such adjustments is unnecessarily restrictive and recommended the maximum adjustment be increased to 10 tons.

After consideration of all relevant matter presented, including that in the notice, the information and recommendations of the committee, and other available information, the amendment of Subpart—Administrative Rules and Regulations (7 CFR 989.101–989.176; 38 FR 10074, 13012) as hereinafter set forth is approved.

Therefore, said subpart is amended as follows:

1. Subdivision (iii) of § 989.159(g)(2) is amended by changing the amount of "$200" prescribed therein to "$400".

2. The second sentence of § 989.166(f) is amended by changing the quantity "2 tons" prescribed therein to "10 tons".

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

Dated June 4, 1973, to become effective July 15, 1973.

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

[FR Doc.73–11413 Filed 6–6–73;8:45 am]

[Valencia Orange Regulation 435]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation fixes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period June 8 to June 14, 1973. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908. The quantity of Valencia oranges so fixed was arrived at after consideration of the total available supply of Valencia oranges, the quantity of Valencia oranges currently available for market, the fresh market demand for Valencia oranges, Valencia orange prices, and the relationship of season average returns to the parity price for Valencia oranges.

§ 908.735 Valencia Orange Regulation 435.

(a) *Findings.*—(1) Pursuant to the marketing agreement, as amended, and order No. 908, as amended (7 CFR, pt. 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the respective quantities of Valencia oranges that may be marketed from district 1, district 2, and district 3 during the ensuing week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The Committee has submitted its recommendation with respect to the quantities of Valencia oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The Committee further reports that the fresh market demand for Valencia oranges is poor. Prices f.o.b. for Valencia oranges averaged $3.24 per carton on a sales volume of 708 cars for the week ended May 31, 1973, compared with $3.27 per carton on a sales volume of 720 cars for the previous week. Track and rolling supplies at 443 cars were unchanged from last week.

(ii) Having considered the recommendation and information submitted by the Committee, and other available information, the Secretary finds that the respective quantities of Valencia oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The Committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation for regulation together with its supporting information has been submitted by the Committee, however, the Secretary has modified the recommendation to provide for the shipment of a greater quantity of Valencia oranges, retaining the same effective date, and such information is being disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such Committee meeting was held on June 5, 1973.

(b) *Order.*—(1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period June 8, 1973, through June 14, 1973, are hereby fixed as follows:

(i) District 1: 231,000 cartons;

(ii) District 2: 378,000 cartons;

(iii) District 3: 91,000 cartons.

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

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

Dated, June 6, 1973.

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

[FR Doc.73–11521 Filed 6–6–73;11:24 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regulations—1973 Crop Flaxseed Supplement]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1973 Crop Flaxseed Loan and Purchase Program

On January 8, 1973, notice of proposed rulemaking regarding loan and purchase rates for 1973 crop flaxseed and detailed operating provisions to carry out the 1973 crop flaxseed loan and purchase program was published in the FEDERAL REGISTER (38 FR 1054). No data, views, or recommendations were filed by interested persons.

The general regulations governing price support for the 1970 and subsequent crops, published at 35 FR 7363 and 7781 and any amendments thereto and the 1970 and subsequent crops flaxseed loan and purchase program regulations published at 35 FR 11456 and any amendments to such regulations, are further supplemented for the 1973 crop of flaxseed. The material previously appearing in these §§ 1421.175 through 1421.178 shall remain in full force and effect as to the crops to which it is applicable.

Sec.

1421.175 Availability.
1421.176 Warehouse charges.
1421.177 Maturity of loans.
1421.178 Loan and purchase rates, premiums, and discounts.

AUTHORITY.—Sec. 4, 62 Stat. 1070, as amended; sec. 5, 62 Stat. 1072; secs. 301, 401, 63 Stat. 1054; 15 U.S.C. 714 b and c, 7 U.S.C. 1447, 1421.

§ 1421.175 Availability.

A producer desiring to participate in the program through loans must request a loan on his 1973 crop of eligible flaxseed on or before April 30, 1974, on flaxseed stored in Minnesota, Montana, North Dakota, South Dakota, and Wisconsin, and on or before March 31, 1974, on flaxseed stored in all other States. To sell eligible flaxseed to CCC a producer must execute and deliver to the appropriate county ASCS office, a purchase agreement (form CCC–614), indicating the approximate quantity of 1973 crop flaxseed he may sell to CCC. The purchase agreement must be delivered to CCC on or before May 31, 1974, for flaxseed stored in the States of Minnesota, Montana, North Dakota, South Dakota, and Wisconsin, and on or before April 30, 1974, for flaxseed stored in all other States.

§ 1421.176 Warehouse charges.

The following schedule of deductions (gross weight basis), for flaxseed stored in an approved warehouse operating under the Uniform Grain Storage Agreement, shall apply as provided in § 1421.157(b):

SCHEDULE OF DEDUCTIONS FOR STORAGE CHARGES BY MATURITY DATES

Maturity date of April 30, 1974	Deduction (cents per bushel)	Maturity date of May 31, 1974
(1)		(1)
Prior to May 18, 1973	15	Prior to June 18, 1973.
May 18 to June 10	14	June 18 to July 11.
June 11 to July 4	13	July 12 to Aug. 4.
July 5 to July 28	12	Aug. 5 to Aug. 28.
July 29, to Aug. 21	11	Aug. 29 to Sept. 21.
Aug. 22 to Sept. 14	10	Sept. 22 to Oct. 15.
Sept. 15 to Oct. 8	9	Oct. 16 to Nov. 8.
Oct. 9 to Nov. 1	8	Nov. 9 to Dec. 2.
Nov. 2 to Nov. 25	7	Dec. 3 to Dec. 26.
Nov. 26, to Dec. 19	6	Dec. 27, 1973 to Jan. 19, 1974.
Dec. 20, 1973 to Jan. 12, 1974.	5	Jan. 20 to Feb. 12.
Jan. 13 to Feb. 5	4	Feb. 13 to Mar. 8.
Feb. 6 to Mar. 1	3	Mar. 9 to Apr. 1.
Mar. 2 to Mar. 25	2	Apr. 2 to Apr. 25.
Mar. 26 to Apr. 30, 1974.	1	Apr. 26 to May 31, 1974.

(1) Date storage charges start, all dates inclusive.

§ 1421.177 Maturity of loans.

Loans mature on demand but not later than May 31, 1974, for flaxseed stored in the States of Minnesota, Montana, North Dakota, South Dakota, and Wisconsin, and April 30, 1974, for flaxseed stored in all other States.

§ 1421.178 Loan and purchase rates, premiums, and discounts.

(a) *Basic loan and purchase rates (counties).*—Basic county rates per bushel for loans and settlement purposes are established for flaxseed grading U.S. No. 1 containing 9.1 to 9.5 percent moisture and are as follows:

ARIZONA

County	Rate per bushel	County	Rate per bushel
Maricopa	$2.88	Yuma	$2.90

CALIFORNIA

County	Rate per bushel	County	Rate per bushel
Fresno	$2.86	San Francisco	$2.91
Imperial	2.93	San Mateo	2.90
Los Angeles	2.97		

IOWA

County	Rate per bushel	County	Rate per bushel
Audubon	$2.44	Lyon	$2.57
Buena Vista	2.55	Mitchell	2.52
Butler	2.50	Monona	2.47
Calhoun	2.48	O'Brien	2.58
Cerro Gordo	2.51	Oscela	2.60
Cherokee	2.56	Palo Alto	2.56
Chickasaw	2.50	Plymouth	2.53
Clay	2.58	Pocahontas	2.49
Dickinson	2.60	Sioux	2.55
Emmet	2.60	Webster	2.49
Floyd	2.51	Winnebago	2.52
Franklin	2.50	Woodbury	2.47
Hancock	2.51	Worth	2.52
Ida	2.46	Wright	2.50
Kossuth	2.52		

MINNESOTA

County	Rate per bushel	County	Rate per bushel
Becker	$2.56	Mower	2.61
Beltrami	2.56	Murray	2.59
Big Stone	2.57	Nicollet	2.61
Blue Earth	2.61	Nobles	2.58
Brown	2.62	Norman	2.53
Carlton	2.63	Olmstead	2.61
Carver	2.59	Otter Tail	2.58
Chippewa	2.60	Pennington	2.53
Clay	2.54	Pipestone	2.57
Clearwater	2.57	Polk	2.54
Cottonwood	2.61	Pope	2.60
Dakota	2.61	Ramsey	2.60
Dodge	2.61	Red Lake	2.54
Douglas	2.59	Redwood	2.62
Faribault	2.60	Renville	2.59
Fillmore	2.59	Rice	2.61
Freeborn	2.61	Rock	2.55
Goodhue	2.61	Roseau	2.50
Grant	2.58	St. Louis	2.64
Hennepin	2.60	Scott	2.59
Hubbard	2.55	Sibley	2.59
Itasca	2.60	Stearns	2.59
Jackson	2.60	Steele	2.61
Kandiyohi	2.59	Stevens	2.59
Kittson	2.49	Swift	2.60
Koochiching	2.53	Todd	2.58
Lac qui Parle	2.59	Traverse	2.56
Lake of the Woods	2.50	Wabasha	2.61
Le Sueur	2.61	Waseca	2.61
Lincoln	2.58	Washington	2.60
Lyon	2.60	Watonwan	2.61
McLeod	2.59	Wilkin	2.56
Mahnomen	2.54	Winona	2.61
Marshall	2.52	Wright	2.59
Martin	2.60	Yellow Medicine	2.60
Meeker	2.59		

MONTANA

County	Rate per bushel	County	Rate per bushel
Blaine	$2.14	Liberty	2.14
Broadwater	2.13	McCone	2.26
Carbon	2.13	Madison	1.97
Carter	2.28	Phillips	2.16
Cascade	2.13	Pondera	2.14
Chouteau	2.14	Power River	2.22
Custer	2.24	Prairie	2.25
Daniels	2.22	Richland	2.27
Dawson	2.29	Roosevelt	2.26
Fallon	2.28	Rosebud	2.19
Fergus	2.13	Sheridan	2.25
Flathead	2.13	Teton	2.14
Glacier	2.14	Toole	2.14
Golden Valley	2.13	Valley	2.20
Hill	2.14	Wibaux	2.29
Lewis and Clark	2.13	Yellowstone	2.13

NORTH DAKOTA

County	Rate per bushel	County	Rate per bushel
Adams	$2.37	Bowman	2.36
Barnes	2.51	Burke	2.36
Benson	2.43	Burleigh	2.40
Billings	2.35	Cass	2.53
Bottineau	2.37	Cavalier	2.44

NORTH DAKOTA—Continued

County	Rate per bushel	County	Rate per bushel
Dickey	$2.51	Oliver	$2.38
Divide	2.35	Pembina	2.49
Dunn	2.36	Pierce	2.41
Eddy	2.46	Ramsey	2.45
Emmons	2.41	Ransom	2.52
Foster	2.47	Renville	2.36
Golden Valley	2.32	Richland	2.55
Grand Forks	2.51	Solette	2.40
Grant	2.38	Sargent	2.54
Griggs	2.50	Sheridan	2.42
Hettinger	2.37	Sioux	2.39
Kidder	2.45	Slope	2.37
La Moure	2.49	Stark	2.37
Logan	2.46	Steele	2.51
McHenry	2.40	Stutsman	2.48
McIntosh	2.47	Towner	2.41
McKenzie	2.26	Trail	2.52
McLean	2.37	Walsh	2.50
Mercer	2.37	Ward	2.37
Morton	2.39	Wells	2.45
Mountrail	2.36	Williams	2.35
Nelson	2.48		

SOUTH DAKOTA

County	Rate per bushel	County	Rate per bushel
Aurora	$2.47	Jackson	$2.44
Beadle	2.50	Jerauld	2.48
Bennett	2.31	Jones	2.45
Bon Homme	2.52	Kingsbury	2.54
Brookings	2.55	Lake	2.53
Brown	2.50	Lawrence	2.39
Brule	2.48	Lincoln	2.54
Buffalo	2.48	Lyman	2.46
Butte	2.36	McCook	2.50
Campbell	2.45	McPherson	2.47
Charles Mix	2.50	Marshall	2.52
Clark	2.53	Meade	2.39
Clay	2.53	Mellette	2.37
Codington	2.54	Miner	2.52
Corson	2.39	Minnehaha	2.52
Custer	2.29	Moody	2.54
Davison	2.50	Pennington	2.42
Day	2.53	Perkins	2.37
Deuel	2.56	Potter	2.48
Dewey	2.39	Roberts	2.54
Douglas	2.50	Sanborn	2.50
Edmunds	2.48	Shannon	2.30
Fall River	2.23	Spink	2.51
Faulk	2.49	Stanley	2.48
Grant	2.56	Sully	2.48
Gregory	2.38	Todd	2.37
Haakon	2.45	Tripp	2.37
Hamlin	2.54	Turner	2.53
Hand	2.49	Union	2.53
Hanson	2.50	Walworth	2.46
Harding	2.35	Washabaugh	2.42
Hughes	2.48	Yankton	2.53
Hutchinson	2.52	Ziebach	2.38
Hyde	2.48		

WASHINGTON

County	Rate per bushel
Lincoln	$2.27

WISCONSIN

County	Rate per bushel	County	Rate per bushel
Ashland	$2.53	Milwaukee	$2.38
Bayfield	2.53	Outagamie	2.42
Brown	2.40	Ozaukee	2.38
Calumet	2.39	Pierce	2.57
Clark	2.48	Portage	2.46
Douglas	2.64	Sauk	2.43
Fond du Lac	2.40	Sheboygan	2.39
Jefferson	2.40	Washington	2.39
Marathon	2.47	Waukesha	2.39
Menominee	2.42	Winnebago	2.40

(b) *Premiums and discounts.*—The basic support rate shall be adjusted, as applicable, by premiums and discounts as follows:

	Cents per bushel
(1) Premium for low moisture (Applicable to Grades U.S. No. 1 and U.S. No. 2): Moisture content (percent): 9 or less	+1

	Cents per bushel
(2) Discounts:	
(i) Grade U.S. No. 2	−6
(ii) Weed control law (where required by § 1421.25)	−15
(iii) Other factors: Amounts determined by CCC to represent market discounts for quality factors not specified above which affect the value of flaxseed, such as (but not limited to) heat damage, musty, and sour. Such discounts will be established not later than the time delivery of flaxseed to CCC begins and will thereafter be adjusted from time to time as CCC determines appropriate to reflect Producers may obtain schedules of such factors and discounts at county ASCS offices approximately 1 month prior to the loan maturity date.	

Effective date.—June 7, 1973.

Signed at Washington, D.C., May 31, 1973.

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

[FR Doc.73-11414 Filed 6-6-73;8:45 am]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 214—NONIMMIGRANT CLASSES

Aliens in Immediate Transit Without Nonimmigrant Visas

Pursuant to 5 U.S.C. 552 and the authority contained in 8 U.S.C. 1103 and 8 CFR 2.1, part 214 of chapter I of title 8 of the Code of Federal Regulations is amended, as hereinafter set forth.

The procedures engendered by the emergency situation involving the threat of terrorist activities in the United States which required the suspension of the provisions for admission of aliens in immediate transit without nonimmigrant visas (8 CFR 212.1(e); published Sept. 27, 1972, and Dec. 22, 1972; 37 FR 20176, 28273), are now being modified to the extent that aliens will be permitted to enter in immediate transit without nonimmigrant visas on and after July 1, 1973, but under stricter controls than had been prescribed prior to the determination of the emergency.

In the light of the foregoing, in part 214, § 214.2(c)(1) is amended to require that a nonimmigrant alien in transit without visa privilege must depart from the United States within 8 hours after his arrival; that until his departure from the United States he shall be in the custody of the carrier which brought him to this country; and that his departure from the United States must be effected from the same port at which he arrived.

As amended, § 214.2(c)(1) reads as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(c) *Transits*—(1) *Without visas.*—An applicant for admission under the transit without visa privilege must establish that he is admissible under the immigration laws; that he has confirmed and onward reservations to at least the next country beyond the United States, and that his departure from the United States will be accomplished within 8 hours after his arrival (except that, if seeking to join a vessel in the United States as a crewman, he will proceed directly to the vessel and upon joining the vessel, will remain aboard at all times until it departs from the United States): *Provided*, That until his departure from the United States he shall be in the custody of the carrier which brought him to the United States: *And provided further*, That departure from the United States must be effected from the same port at which he arrived. Except for transit from one part of foreign contiguous territory to another part of the same territory, application for direct transit without a visa must be made at one of the following ports of entry: Buffalo, N.Y.; Niagara Falls, N.Y.; Rouses Point, N.Y.; Boston, Mass.; New York, N.Y.; Philadelphia, Pa.; Baltimore, Md.; Washington, D.C.; Norfolk, Va.; Atlanta, Ga.; Miami, Fla.; Port Everglades, Fla.; Tampa, Fla.; New Orleans, La.; San Antonio, Tex.; Dallas, Tex.; Houston, Tex.; Brownsville, Tex.; San Diego, Calif.; Los Angeles, Calif.; San Francisco, Calif.; Honolulu, Hawaii; Seattle, Wash.; Portland, Oreg.; Great Falls, Mont.; St. Paul, Minn.; Chicago, Ill.; Detroit, Mich.; Denver, Colo.; Anchorage, Alaska; Fairbanks, Alaska; San Juan, Puerto Rico; Ponce, Puerto Rico; Charlotte Amalie, Virgin Islands; Christiansted, Virgin Islands; Agana, Guam. The privilege of transit without a visa may be authorized only under the conditions that the carrier, without the prior consent of the Service, will not refund the ticket which was presented to the Service as evidence of the alien's confirmed and onward reservations, and that the alien will not apply for extension of temporary stay or for adjustment of status under section 245 of the act.

* * * * *

Compliance with the provisions of 5 U.S.C. 553 (80 Stat. 383), as to notice of proposed rulemaking and delayed effective date is contrary to the public interest because the amendment to § 214.2,c)(1) is designed to ensure strict compliance with the transit without visa privilege.

Effective date.—This order shall be effective on July 1, 1973.

Dated June 4, 1973.

JAMES F. GREENE,
Acting Commissioner of
Immigration and Naturalization.

[FR Doc.73-11382 Filed 6-6-73;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 AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1140]

[Docket No. AO-376]

MILK IN THE FRONTIER MARKETING AREA

Notice of Hearing on Proposed Marketing Agreement and Order

Correction

In FR Doc. 73-9741 appearing at page 12986 in the issue for Thursday, May 17, 1973, make the following changes:

1. In the eighth line of § 1140.40(c)(8)(ii), "warm" should read "farm".

2. In the second line of § 1140.60(c), "paragraphs (b) (1) and (2)" should read "paragraphs (c) (1) and (2)".

3. The line following § 1140.25(a)(1) reading "and the corresponding step of § 1140.26" should be transposed so as to appear immediately following the penultimate line of § 1140.25(a)(1).

4. In the third line of § 1140.39(a), "suant to §§ 1140.36 and 1140.37," should read "located outside the base zone,".

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 103]

[Docket No. 12040; Notice No. 73-17]

REPORTING CERTAIN DANGEROUS ARTICLE INCIDENTS

Notice of Proposed Rulemaking

The Federal Aviation Administration is considering amending § 103.28(a) of the Federal Aviation Regulations regarding the place to which certificate holders under parts 121, 127, and 135 may report certain incidents involving dangerous articles.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, attention: rules docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. All communications received on or before August 5, 1973, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments in the rules docket, for examination by interested persons.

Section 103.28(a) requires each carrier transporting dangerous articles to report to the nearest ACDO, FSDO, GADO, or other FAA facility by telephone at the earliest practicable moment after each incident that occurs during the course of transportation and involves any of the incidents specified in that section. This reporting requirement was adopted by the FAA in amendment 103-8, concurrent with its establishment for other modes of transportation, effective December 31, 1970 (35 FR 16829; October 31, 1970).

Amendment 103-8 was based on a notice of proposed rulemaking (notice No. 69-48) published in the FEDERAL REGISTER on October 29, 1969. As explained in the notice, the purpose of the telephone reporting requirement in § 103.28(a) is to provide an immediate report covering essential items of information necessary for the FAA and the National Transportation Safety Board to determine what immediate action should be taken by them, if any.

At least one air carrier has indicated to the FAA that it believes a central reporting point would improve the efficiency of handling reports currently required by § 103.28(a) to be made to the nearest FAA facility specified, since some air carriers are required to make a similar report to their management headquarters. Furthermore, in the case of air carriers and commercial operators certificated under part 121, 1270, or 135 reporting by telephone to a central point could, under certain circumstances, be more expeditious than trying to locate and report to the nearest FAA facility, particularly if the incident involved occurred outside the United States.

It appears, therefore, that in some instances the objective of immediate notification may be more effectively achieved if certificate holders under parts 121, 127, and 135 are permitted to report to the FAA District Office holding the carrier's operating certificate and charged with the overall inspection of the certificate holder's operations. Accordingly, it is proposed to amend § 103.28(a) to permit such a reporting procedure to be followed by part 121, 127, and 135 certificate holders.

This amendment is proposed under the authority of sections 313(a) and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a) and 1421), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend paragraph (a) of § 103.28 of the Federal Aviation Regulations to read as follows:

§ 103.28 Reporting certain dangerous article incidents.

(a) Each carrier that transports dangerous articles shall report to the nearest ACDO, FSDO, GADO, or other FAA facility, except that in lieu of reporting to the nearest of those facilities a certificate holder under part 121, 127, or 135 of this chapter may report to the FAA District Office holding the carrier's operating certificate and charged with overall inspection of its operations, by telephone at the earliest practicable moment after each incident that occurs during the course of transportation (including loading, unloading or temporary storage) in which as a direct result of any dangerous article—

* * * * *

Issued in Washington, D.C., on May 30, 1973.

C. R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

[FR Doc.73-11357 Filed 6-6-73;8:45 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 73-13; Notice 1]

AIR BRAKE SYSTEMS

Notice of Proposed Rulemaking

The purpose of this notice is to propose several amendments to Motor Vehicle Safety Standard No. 121, Air brake systems, concerning parking brake and emergency brake requirements, test conditions for truck-tractor tests, and other provisions.

Standard No. 121 was established by rulemaking notices of February 27, 1971 (36 FR 3817), February 24, 1972 (37 FR 3905), and June 24, 1972 (37 FR 12495). The standard goes into effect on September 1, 1974, and governs the performance of airbrake equipped vehicles manufactured after that date.

The following discussion of the proposed amendments is arranged in three parts. The first part consists of amendments proposed in response to a petition by the American Trucking Association (ATA) concerning the parking brake and emergency braking requirements of the standard. The second part contains proposed test conditions for tests of truck-tractors, in a form significantly different from that proposed in an earlier notice on the subject (docket 70-17; Notice 5, 37 FR 12508). The third part

treats a variety of proposed amendments, some in response to petitions for rulemaking and others remedial in nature.

I. *Response to the ATA petition.*—At the request of the ATA, a public meeting under NHTSA sponsorship was held on October 25, 1972, to discuss objections by ATA members to the automatic parking brake allowed under S5.7 of the standard as a means of providing emergency braking capability. On December 13, 1972, the ATA submitted a formal petition for rulemaking requesting the amendments discussed at the meeting. Upon review of the petition, the NHTSA has tentatively decided to grant the ATA's principal requests and therefore proposes to amend the standard in several respects.

In response to ATA's request to eliminate the automatic parking brake as an optional means of providing emergency braking capability, the agency proposes to amend the emergency brake section, S5.7., by deleting the present section S5.7.1, Parking brake application with automatic application, and by making a corresponding change in the introductory language of S5.7. The NHTSA also proposes to designate the brake system specified by S5.7 as the secondary brake system rather than the emergency brake system. ATA had urged the use of "secondary" rather than "emergency" on the grounds that it is more descriptive of the situations in which the system will be used. The NHTSA agrees with ATA's evaluation and proposes to change the standard's terminology accordingly.

The effect of the deletion of the automatic parking brake alternative will be to require all vehicles to be equipped with secondary brakes that can be modulated by the driver. The automatic parking brake would not be prohibited, but a manufacturer could not provide such a brake without also providing modulated secondary braking capability that would enable the vehicle to conform to the standard.

In proposing the deletion of S5.7.1 in its entirety, the NHTSA goes beyond the amendment requested by ATA, which had limited the scope of its petition to those vehicles manufactured or operated by its members and had not requested similar relief for buses. Upon review of the similarities between the airbrake systems on trucks and those on buses, the agency finds that there is no evident reason for treating buses differently and therefore proposes to delete the automatic braking alternative for buses as well as for trucks.

The second ATA request on which favorable action is proposed concerns the elimination of the option of using the parking brake hand control for secondary braking and the adoption of the service brake control as the method for controlling the secondary system. After considering the reasons for the change advanced by ATA, the NHTSA has concluded that the advantages of having a secondary system controlled by the pedal to which the driver is most accustomed are great enough that the secondary system should be required to be controlled in this manner. The proposed requirement for operation by the service brake control has been inserted as section S5.7.1, filling the gap in the section numbers left by the deletion of the automatic parking brake option.

The third ATA request concerns the capability of the secondary braking system to be applied at least twice in the event of primary brake system failure. At the October 25, 1972, meeting, the ATA had advocated a system that could be applied at least twice but not more than six times. In response to criticism from others in the industry that the maximum of six applications would be too design restrictive, the ATA modified its petition to request a minimum of two applications, without a specified maximum but with a separate requirement that the isolated reservoirs not be capable of pressurization before pressure is restored to the service brake system. The ATA also requested that the section (S5.2.1.1) governing the reservoir used to release the parking brakes be amended to specify two releases from a pressure of 115 lb/in², in place of the single release from 90 lb/in² presently specified.

The NHTSA considers the requested changes to be reasonable and therefore proposes to amend the standard by adding a new section S5.7.3 to specify a minimum of two applications and releases, by adding a new section S5.1.2.5 to govern the pressurization of isolated reservoirs and auxiliary equipment reservoirs, and by amending the present section S5.2.1.1 to require at least two releases from a reservoir pressure of 115 lb/in².

The agency is proposing additional amendments to the parking brake and secondary brake requirements, some of them in partial response to the ATA petition. ATA proposed that section S5.1.3, Towing vehicle protection system, be amended to restrict the protection afforded by the system so that "either the service reservoir or the isolated reservoir", but not the whole system, would be protected. The NHTSA proposes, instead, to apply performance requirements to the pressure protection system by requiring it to protect the air pressure so that the vehicle can stop in accordance with the parking brake and secondary brake requirements. It is therefore proposed that requirements be added to the secondary brake section, S5.7.2, that will require the vehicle to stop with failed airhoses attached to the trailer line couplers.

ATA requested the addition of a new section, S5.6.5, to govern the compatibility of parking brakes on tractors and trailers by requiring the brakes to be ineffective at a supply line pressure of 60 lb/in² and to be at maximum effectiveness at a supply line pressure of 0 lb/in². Although the NHTSA considers such a provision to be appropriate with respect to trailers, it does not consider extension of the requirement to tractors to be necessary, and is therefore proposing to adopt a requirement applicable to trailers alone.

The present sections S5.7.1 and S5.7.2 each contain requirements for manual application of the parking brakes. With the deletion of S5.7.1 it is convenient to consolidate the parking brake requirements under the parking brake section. It is proposed, therefore, that the manual parking brake application requirement from S5.7.2 be added to section S5.6 as S5.6.6. Also included in the proposed S5.6.6 is a requirement that the parking brakes be capable of application, either manually or automatically, when the air pressure in all reservoirs, including the isolated reservoirs, is at atmospheric pressure. This latter proposal reflects a request by the ATA, under which similar language would have been added to the present S5.7.2.2.

A further change is proposed in the parking brake requirements of S5.6. In place of the static retardation test of S5.6.1, the agency proposes to require the parking brakes to be capable of applying at a speed of 60 mi/h and of stopping the vehicle from that speed in not more than 4½ times the service brake stopping distance. Most parking brakes currently have stopping capability, and the agency considers it both reasonable and practicable to require this capability of all vehicles.

The ATA petition also requested additions to the definitions section of the standard, an amendment of the stoplamp switch requirement, and the use of the term "primary brake system" in place of "service brake system." The agency proposes to incorporate definitions for service reservoirs and isolated reservoirs in section S4, but declines to adopt the remaining changes requested by ATA as unnecessary.

II. *Test conditions.*—Two substantive changes in the test conditions of S6 were proposed by notice 5 in docket 70–17. The first of these was a proposed change in the wind velocity condition, i.e. the conditions under which the vehicle must be capable of meeting all the requirements, from 0 wind to a velocity range of from 0 to 15 mi/h in any direction. The proposed change met with considerable resistance from manufacturers, who stated that a burdensome amount of additional testing would be required without any resultant increase in safety. The proposed change was intended primarily to make the NHTSA's testing program more efficient and was not intended to effect a major substantive change in the requirements of the standard. Upon consideration of the comments, the NHTSA has concluded that the zero wind condition represents the best compromise between public convenience and regulatory efficiency, and it is therefore withdrawing the proposal.

The second proposal concened the testing of truck-tractors at their gross vehicle weight ratings. In response to a number of earlier comments on the subject, notice 5 proposed that tractors be tested by using a trailer, rather than by placing weights on the rear bed of the tractor. None of the comments to notice 5 objected to the use of a trailer. As to

the details of the proposal, however, there were a number of objections. Many of these objections have been found by the NHTSA to be well founded, and it has decided to reissue the proposal in an amended form to allow additional opportunity for comment before issuance of a final rule.

The proposed amendment continues to specify the use of a flatbed semitrailer, but with much tighter restrictions on the variance in the length of the trailer and in the location of the load. Two trailer lengths, measured from axle to kingpin, are specified, the shorter one to be used for testing tractors with a rear axle GAWR of 26,000 lb or less and the longer to be used for tractors with a rear axle GAWR of more than 26,000 lb. Each of the trailers is representative of a size of trailer presently in use. To allow for slight variances in manufacturing a very small range—1 ft—is specified for the trailers' lengths. The centers of gravity of the loaded trailers are also controlled to within a narrow range of between 63 and 69 in above the ground.

The location of the fifth wheel was another area of controversy under notice 5. Rather than specify, as notice 5 did, that an adjustable fifth wheel is to be at any adjustment location, this notice proposes to adjust the fifth wheel so that the tractor is at its GVWR and the weight of the trailer is most nearly proportional to the GAWR's of the tractor's axles.

The trailer's brakes, under the new proposal, would be capable of stopping the combination in a specified distance from 60 mi/h rather than from 45 mi/h as proposed in notice 5. The loading of the trailer and the actuation time for the trailer brakes during the trailer brake evaluation test are also specified.

III. *Additional proposed amendments.*—During the year since the last major revision of standard 121, a number of changes have been requested through petitions for rulemaking. In addition, questions of interpretation have arisen with respect to some sections that can be most satisfactorily resolved by amending the sections in question. Upon considering these various items, the NHTSA has decided to propose several amendments. The following discussion proceeds in the order of their appearance in the standard.

In response to a petition by the Berg Manufacturing Co., it is proposed that section S5.1.6 be amended to permit an antilock failure signal that does not actuate until the brake pedal is depressed. Because the function of the warning is to alert the driver that he will have to rely on his own efforts to avoid lockup, and not to warn him of an inherently dangerous situation such as brake system pressure failure, the agency considers a warning upon brake application to be adequate to enable the driver to brake safely. In addition, a manual shutoff for the warning signal would be permitted, again at Berg's request, that would reactuate the signal upon each subsequent brake application.

Section S5.3.1 would be amended with respect to the type of lockup permitted by antilock systems. The question has been raised by Kelsey-Hayes Co. whether S5.3.1 permits the wheels on a vehicle to be completely locked during a stop so long as they are "controlled" by an antilock system. Although the agency has stated that this was not its intent in deleting the former reference to "momentary" lockup, it appears advisable to amend the section to clarify its intent. The system sought to be allowed by the previous amendment was a system in which the antilock system permitted one wheel on an axle to lock while the other cycled without more than momentary lockup. A system in which only one wheel cycles on a tandem axle with four wheels would not, in the agency's opinion, provide adequate stability. An amendment is therefore proposed that would insure that at least half the wheels on each axle are prevented by the antilock system from locking more than momentarily during the stopping tests.

Changes are proposed in S5.3.4 to allow a slightly longer release time for trailer brakes, and in S5.4.1 to limit the applicability of the brake retardation force requirement so that it applies only to trailers. Section S5.4.3 would be amended to relieve vehicles with antilock systems from the minimum recovery pressure requirement. Section S5.6 would be amended, in addition to the amendments discussed under I above, by exempting converter dollies from the parking brake requirements. A trailer's parking brakes are required to hold it on a grade with an unbraked dolly so that this exception, requested by Fruehauf, appears reasonable.

In addition to the secondary braking amendments discussed in conjunction with the ATA petition, it is also proposed that the secondary brake stopping distance requirements in S5.7.2 be amended with respect to certain categories of vehicles. In a notice of proposed rulemaking published March 13, 1973 (38 FR 6831), the agency proposed to allow two-axle truck tractors to stop in a somewhat longer distance than other vehicles in accordance with a proposed stopping distance formula. Review of the comments submitted in response to that notice suggests that there are other categories of vehicles that under some circumstances should be permitted to stop in distances equivalent to those proposed for two-axle truck tractors. Systems have been developed that provide antilock capability for the secondary brakes. If a truck equipped with such a system can stop in the secondary mode without lockup, it is proposed that it be permitted to stop in its unloaded condition in the distance proposed for truck tractors in the previous notice. As a further condition to being permitted the longer stopping distance, such trucks would also be required to stop with the assistance of the parking brake in the distance now specified for secondary braking systems.

In further response to the comments on the March 13 notice, it is proposed that table II be amended to provide for two secondary brake stopping distances, the first (under column 3 of the table) to be the same as that currently contained in the standard and the second (column 4) to be that requested by Ford in the petition for rulemaking that gave rise to the March 13 notice. The proposed amendment concerning two-axle truck tractors would be revised upon issuance as a final amendment to refer to the column 4 stopping distances rather than to the formula.

The burnishing procedures of S6.1.8 would be revised to specify a larger number of decelerations over a variety of speed ranges, as set forth in a newly proposed table IV. The proposed amendment reflects the suggestions of General Motors and Freightliner in their comments to notice 5.

New sections, S6.1.10 and S6.1.11, are proposed to specify the status of interlocking axles, front wheel drive systems, and liftable axles during the tests. Section S6.1.12 is proposed to specify the performance of the trailer test rig for purposes of the actuation time requirement.

It is therefore proposed that the above mentioned sections of Motor Vehicle Safety Standard No. 121, Air Brake Systems, 49 CFR 571.121, be amended to read as set forth below.

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 521, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered by the Administration. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The Administration will continue to file relevant material, as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Comment closing date.—July 16, 1973.

Proposed effective date.—September 1, 1974.

(Secs. 103, 119, Public Law 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1407; delegations of authority at 38 FR 12147.)

Issued on June 1, 1973.

JAMES E. WILSON,
Associate Administrator,
Traffic Safety Programs.

1. S4 would be amended by the addition of new definitions as follows:

S4. Definitions. "Isolated reservoir" means a reservoir that supplies air to brakes only during application of the secondary or parking brakes.

"Service reservoir" means any reservoir that supplies air to the brakes during a service brake system application.

2. S5.1.2.5 would be added as follows:

S5.1.2.5 Each reservoir system shall be arranged so that air cannot be supplied to any isolated reservoir or auxiliary equipment reservoir when the air pressure in any service reservoir is less than 60 lb/in².

3. S5.1.3 would be amended as follows:

S5.1.3, Towing vehicle protection system. If the vehicle is intended to tow another vehicle equipped with airbrakes, a system to protect the air pressure in the towing vehicle so that it is capable of stopping as specified in S5.7.2.2 and S5.7.2.3.

(4) S5.1.6 would be amended as follows:

S5.1.6, Antilock failure signal.—A signal on each vehicle equipped with an antilock system that warns the driver in the event of a total antilock system failure either before he applies the brakes or as he applies them, with the ignition in the "on" or "run" position. The signal shall be either continuously visible with the driver's forward field of view or both audible and continuously visible. If an audible signal is provided, it shall either sound for at least 10 seconds or sound until it is shut off by a manual switch that also controls the visual signal and causes both signals to actuate upon each subsequent brake application. The signal shall operate in the specified manner each time the ignition is returned to the "on" or "run" position.

(5) S5.2.1.1 would be amended as follows:

S5.2.1.1 A reservoir shall be provided that, after being fully pressurized by a 115 lb/in² air source connected to the trailer supply line, followed by elimination of the service reservoir pressure, can release the vehicle's parking brakes at least twice. The reservoir shall be unaffected by a loss of air pressure in the service brake system.

(6) S5.3.1 would be amended as follows:

S5.3.1, Stopping distance—trucks and buses. When stopped six times for each combination of weight, speed, and road condition specified in S5.3.1.1, in the sequence specified in table I, the vehicle shall stop at least once in not more than the distance specified in table II, measured from the point at which movement of the service brake control begins, without any part of the vehicle leaving the roadway and without lockup of any wheel at speeds above 10 mi/h, except for lockup of wheels controlled by an antilock system that does not permit more than half the wheels on any controlled axle to lock more than momentarily, and except for lockup of wheels on nonsteerable axles other than the two rearmost nonsteerable axles.

(7) S5.3.2, would be amended as follows:

S5.3.2, Stopping capability—trailers. When tested at each combination of weight, speed, and road conditions specified in S5.3.2.1, in the sequence specified in table I, with air pressure of 90 lb/in² in the control line and service reservoir system and with no application of the towing vehicle's brakes, a trailer shall stop without any part of the trailer leaving the roadway and without lockup of any wheel speeds above 10 mi/h, except for lockup of wheels controlled by an antilock system that does not permit more than half the wheels on any controlled axle to lock more than momentarily, and except for lockup on wheels on nonsteerable axles other than the two rearmost nonsteerable axles.

(8) S5.3.4 would be amended as follows:

S5.3.4, Brake release time. With an initial brake chamber air pressure of 95 lb/in², the air pressure in each brake chamber shall fall to 5 lb/in² in not more than 0.50 s (0.60 s for trailers) measured from the first movement of the service brake control. A vehicle designed to tow another vehicle equipped with airbrakes shall be capable of meeting the above release time requirement with a 50-cubic-inch test reservoir connected to the control line coupling. A trailer shall meet the above release time requirement with its brake system connected to the test rig shown in figure 1.

(9) S5.4.1 would be amended as follows:

S5.4.1, Brake retardation force. The sum of the retardation forces exerted by the brakes on each vehicle designed to be towed by another vehicle equipped with airbrakes shall be such that the quotient

$$\frac{\text{Sum of brake retardation forces}}{\text{Sum of GAWR's}}$$

relative to brake chamber air pressure, shall have values not less than those shown in table III. Retardation force shall be determined as follows:

(10) S5.4.3 would be amended as follows:

S5.4.3, Brake recovery. Starting 2 minutes after completing the tests required by S5.4.2, the brake shall be capable of making 20 consecutive stops from 30 mi/h at an average deceleration rate of 12 ft/s/s, at equal intervals of 1 minute measured from the start of each brake application. The service line air pressure needed to attain a rate of 12 ft/s/s shall be not more than 75 lb/in² and except for a brake controlled by an antilock system, not less than 20 lb/in².

(11) S5.6 would be amended as follows:

S5.6, Parking brake system. Each vehicle other than a converter dolly shall have a parking brake system that under the conditions of S6.1 meets the following requirements:

(12) The present S5.6.1 would be deleted and a new S5.6.1 and S5.6.2 added as follows:

S5.6.1, Dynamic capability. The parking brake system shall be capable of being applied when the vehicle is moving at a speed of 60 mi/h.

S5.6.2, Stopping capability—trucks and buses. The parking brake system shall be capable of stopping the vehicle from 60 mi/h in not more than 4.5 times the distance specified in table II for service brake stops, measured from the point at which movement of the parking brake control begins.

(13) The present S5.6.2 through S5.6.4 would be renumbered S5.6.3 through S5.6.5.

(14) A new S5.6.6 and S5.6.7 would be added as follows:

S5.6.6, Parking brake application—trucks and buses. The parking brake shall be capable of application at any reservoir system pressure level and shall be capable of application in the event of any failure that results in air pressure loss.

S5.6.7, Parking brake application—trailers. The parking brakes of a trailer shall apply with their maximum force whenever the air in the supply line from the towing vehicle is at atmospheric pressure, shall apply with diminishing force as the supply line air pressure increases, and shall be fully released whenever the supply line pressure level is at 60 lb/in² or above.

(15) The present S5.7 would be deleted and a new S5.7 substituted as follows:

S5.7, Secondary brake system—trucks and buses. Each vehicle shall have a secondary brake system that can be modulated by the driver and that conforms to the following requirements. The secondary brake system may include portions of the service brake or parking brake systems.

S5.7.1, Secondary brake control. The secondary brake system shall be controlled by the service brake control.

S5.7.2, Secondary brake stopping distance. When stopped 6 times for each combination of weight and speed specified in S5.3.1.1 on a road surface with a skid number of 75, with a single failure in the service brake system of a part designed to contain compressed air or brake fluid (except failure of a common valve, manifold, brake fluid housing, or brake chamber housing) the vehicle shall stop at least once in not more than the distance specified in column 3 of table II, measured from the point at which movement of the brake control begins, without any part of the vehicle leaving the roadway.

S5.7.2.1 Notwithstanding the distances specified in S5.7.2, a truck may stop at its unloaded weight plus 500 lb in the distance specified in column 4 of table II, provided that in addition, (a) it stops without lockup of any wheels at speeds above 10 mi/h, except for lockup of wheels controlled by an antilock system that does not permit more than half the wheels on any controlled axle to lock more than momentarily, and except for lockup of wheels on nonsteerable axles other than the two rearmost nonsteerable axles, and (b) if it is other than a two-axle truck-tractor, it stops

within the secondary brake stopping distance specified in column 3 of table II when the parking brake is applied 1 s after the initial movement of the emergency brake control without lockup of any wheel on the front axle or on the rearmost axle at speeds above 10 mi/h except for lockup of wheels controlled by an antilock system that does not permit more than half the wheels on any controlled axle to lock more than momentarily.

S5.7.2.2 An integral truck designed to tow another airbrake-equipped vehicle, and an unloaded truck tractor, shall be capable of meeting the requirements of S5.7.2 when tested with open air hoses attached to either or both of the couplers for the trailer supply and control lines.

S5.7.2.3 A truck-tractor shall be capable of meeting the requirements of S5.7.2 when tested at its GVWR with a failure in the service air line between the truck-tractor and the trailer.

S5.7.3. Brake releases. With a failure as specified in S5.7.2 the secondary brake system shall be capable of being fully applied and released at least twice.

(16) S5.8 would be deleted.

(17) S6.1.1 would be amended to read as follows:

S6.1.1 Except as specified in S5.3, S5.6.3, and S5.7.2 the vehicle is loaded to its gross vehicle weight rating, distributed proportionally to its gross axle weight ratings.

(18) A new section, S6.1.2, would be added as follows:

S6.1.2 When a truck-tractor is tested at its gross vehicle weight rating, it is loaded by coupling it to a flatbed semitrailer as follows:

S6.1.2.1 The trailer conforms to this standard.

S6.1.2.2 The center of gravity of the loaded trailer is on the trailer's longitudinal centerline at a height of 66±3 in above the ground.

S6.1.2.3 For a truck-tractor with a total rear axle gross axle weight rating of 26,000 lb or less, the trailer has a single axle with a gross axle weight rating of 20,000 lb and a length, measured from the transverse centerline of the axle to the centerline of the kingpin, of 248±6 in.

S6.1.2.4 For a truck-tractor with a total rear axle gross axle weight rating of more than 26,000 lb, the trailer has a tandem axle with a combined gross axle weight rating of 40,000 lb and a length, measured from the transverse centerline between the axles to the centerline of the kingpin, of 416±6 in.

S6.1.2.5 In a test other than a static parking brake test, the trailer is loaded so that its axle is loaded to its gross axle weight rating and the tractor is loaded to its gross vehicle weight rating, with the tractor's fifth wheel adjusted so that the force transmitted to the tractor axles through the kingpin is most nearly proportional to the axles' respective gross axle weight ratings.

S6.1.2.6 In a static parking brake test, the trailer is loaded so that the weight of the combination is equal to the gross vehicle weight rating of the tractor with the center of gravity of the trailer load vertically above the trailer kingpin.

S6.1.2.7 With the trailer loaded so that its axles are at gross axle weight rating but its kingpin is at unloaded weight, the trailer's service brakes are capable of stopping the combination from 60 mi/h under the conditions of S6.1, without assistance from the tractor's brakes, in the distance found by multiplying the service brake stopping distance specified in table II by the ratio:

$$\frac{\text{weight on all axles of combination}}{\text{weight on trailer axles}}$$

when the trailer brake application time from 0 to 60 lb/in² is not more than 0.30 s.

S6.1.2.8 With the trailer loaded in accordance with S6.1.2.5, the trailer's parking brakes are capable of stopping the combination from 60 mi/h under the conditions of S6.1 without assistance from the tractor's brakes in the distance found by multiplying the secondary brake stopping distance in column 3 of table II by the ratio:

$$\frac{\text{weight on all axles of combination}}{1.4 \times \text{weight on trailer axles}}$$

when the trailer brake release time from 95 to 5 lb/in² is not greater than 0.60 s.

(19) Section S6.1.8 would be amended as follows:

S6.1.8 Brakes are burnished before testing as follows: With the transmission in the highest gear appropriate for the speed given in table IV make 500 brake applications at a deceleration rate of 10 ft/s/s, or at the vehicle's maximum deceleration rate, if less than 10 ft/s/s, in the sequence specified in table IV. After each brake application accelerate to the next speed specified and maintain that speed until making the next brake application at a point 1 mi from the initial point of the previous brake application. If a vehicle cannot attain the specified speed in 1 mi, continue to accelerate until the specified speed is reached or until the vehicle has traveled 1.5 mi from the initial point of the previous brake application. If during any of the brake applications specified in table IV, the hottest brake reaches 500° F., make the remainder of the 500 applications from that speed except that a higher or lower speed shall be used as necessary to maintain a maximum temperature of 500° F.±50° F. After burnishing, adjust the brakes as recommended by the vehicle manufacturer.

(20) New sections, S6.1.10, S6.1.11, and S6.1.12 would be added as follows:

S6.1.10, Special drive conditions. A vehicle equipped with an interlocking axle system or a front wheel drive system that is engaged and disengaged by the driver is tested with the system disengaged.

S6.1.11, Liftable axles. A vehicle with a liftable axle is tested at gross vehicle weight rating with the liftable axle down and at unloaded vehicle weight with the liftable axle up.

S6.1.12 The trailer test rig shown in figure 1 is capable of increasing the pressure in a 50-cubic-inch reservoir from 0 to 60 lb/in² in 0.063 s and of releasing the pressure in such a reservoir from 90 to 5 lb/in² in 0.220 s.

(21) Table I would be amended as follows:

TABLE I—*Stopping sequence*

1. Burnish.
2. Test trailer service brake stops at 60 mi/h (as specified in S6.1.2.7).
3. Test trailer parking brake stops at 60 mi/h (as specified in S6.1.2.8).
4. Stops with vehicle at gross vehicle weight rating:
   (a) 20 mi/h service brake stops on skid number of 75.
   (b) 60 mi/h service brake stops on skid number of 75.
   (c) 20 mi/h service brake stops on skid number of 30.
   (d) 20 mi/h secondary brake stops on skid number of 75.
   (e) 60 mi/h secondary brake stops on skid number of 75.
   (f) 60 mi/h parking brake stops on skid number of 75.
5. Parking brake grade holding test with vehicle loaded to gross vehicle weight rating.
6. Stops with vehicle at unloaded weight plus 500 lb:
   (a) 20 mi/h service brake stops on skid number of 75.
   (b) 60 mi/h service brake stops on skid number of 75.
   (c) 20 mi/h service brake stops on skid number of 30.
   (d) 20 mi/h secondary brake stops on skid number of 75.
   (e) 60 mi/h secondary brake stops on skid number of 75.
7. Parking brake grade holding test with vehicle at unloaded weight plus 500 lb.

(22) Table II would be amended as follows:

TABLE II.—*Stopping distance in feet*

Vehicle speed in miles per hour	Primary brake stopping distance		Secondary brake stopping distance	
	Column 1 skid No. 75	Column 2 skid No. 30	Column 3, skid No. 75	Column 4
20	33	54	83	85
25	49		123	131
30	68		170	186
35	90		225	250
40	115		288	325
45	143		358	409
50	174		435	504
55	208		520	608
60	245		613	720

(23) Table IV would be added to read as follows:

TABLE IV

Series	Snubs	Snubs conditions (highest speed specified)
1	175	40 to 20 mph.
2	25	45 to 20 mph.
3	25	50 to 20 mph.
4	25	55 to 20 mph.
5	250	60 to 20 mph.

[FR Doc.73-11284 Filed 6-1-73;4:25 pm]

[49 CFR Parts 566, 567, 568, 571]

[Docket No. 73-14; Notice 1]

MANUFACTURER CODES

Identification Code Requirement and Assignment

This notice proposes amendments to the "Manufacturer Identification Regulation," 49 CFR, part 566, and related sections of 49 CFR 567, 568, and 571, that would establish a manufacturer identification code for use by manufacturers of vehicles and motor vehicle equipment other than tires, to fulfill their identification, certification, and labeling responsibilities. Motor vehicle tires are presently subject to a manufacturer identification code under 49 CFR, part 574, Tire Identification and Record Keeping.

Identification of vehicle and vehicle equipment manufacturers is central to the administration and enforcement of the National Traffic and Motor Vehicle Safety Act. The regulation and enforcement mechanism operates through the manufacturer to insure compliance and defect notification, and requires complete, accurate identification of the manufacturer and his product. NHTSA regulations presently require manufacturer identification (49 CFR, pt. 566) and labeling of motor vehicles (49 CFR, pt. 567). The stated purpose of 49 CFR, part 566, Manufacturer Identification, is to "facilitate the regulation of manufacturers under the National Traffic and Motor Vehicle Safety Act, and to aid in establishing a code numbering system for all regulated manufacturers."

This notice proposes an organized code numbering system of identification to increase the ease and uniformity of labeling regulated equipment. Additionally, a code is more suitable for computer applications and would aid the retrieval of identification data for defect notification. A code also permits consistent identification of manufacturers throughout the range of their products and brand names.

The proposed code would consist of one letter and four nonsignificant numbers and would be assigned in order of written application to the Department of Transportation under 49 CFR, part 566. The code would affect the following certification procedures and equipment standards:

49 CFR, Part 567, Certification, would be amended by adding new §§ 567.4(g)(2) and 567.5(a)(2), and changing §§ 567.5(a)(4), 567.5(c), and 567.5(d) to reflect the new code marking requirements.

49 CFR, Part 568, Vehicle Manufactured in Two or More Stages, would be amended by changing §§ 568.4(a)(1) and 568.5 to reflect the code requirements.

49 CFR, Part 571, Federal Motor Vehicle Safety Standards, would be amended to require the use of the new code numbers in the following equipment standards:

Section 571.106, Hydraulic brake hoses (paragraphing refers to the proposed revision published Mar. 30, 1971, 36 FR 5855).

Section 571.108, Lamps, reflective devices, and associated equipment (paragraphing refers to the proposed revision published Aug. 29, 1972, 37 FR 17493).

Section 571.116, Motor vehicle brake fluids.

Section 571.125, Warning devices.

Section 571.126, Truck-camper loading.

Section 571.205, Glazing Materials (replacing the system presently specified in that standard).

Section 571.208, Occupant crash protection.

Section 571.209, Seatbelt assemblies.

Section 571.211, Wheel nuts, wheel disks, and hubcaps.

Section 571.213, Child seating systems.

The changes to standards 106 and 108 would affect the language of proposed revisions of standards presently in force.

Renumbering of several paragraphs of part 567 would require changes to several references in part 567.

Use of the DOT symbol, or other means, to indicate compliance with the safety standards, would be added to MVSS 208, 209, 211, and 213 for labeling uniformity.

In consideration of the foregoing, it is proposed that 49 CFR, Part 566, Manufacturer Identification, Part 567, Certification, Part 568, Vehicles Manufactured in Two or More Stages, and Part 571, Federal Motor Vehicle Safety Standards, be amended as follows:

PART 566—MANUFACTURER IDENTIFICATION

1. Part 566, Manufacturer Identification, would be amended by adding a new § 566.7, to read:

§ 566.7 Code number.

Each manufacturer of motor vehicles or covered equipment shall apply for and receive a code number, for identification purposes, that will be comprised of a letter followed by four numbers. Code numbers will be assigned to manufacturers on their written request to the Associate Administrator, Motor Vehicle Programs, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590.

PART 567—CERTIFICATION

2. Part 567, Certification, would be amended by adding a new subparagraph (2) to § 567.4(g), to read:

§ 567.4 Requirements for manufacturers of motor vehicles.

* * * * * * *

(g) * * *

(2) "Code number" followed by the code number assigned pursant to § 566.7 of this chapter to the manufacturer identified in accordance with paragraph (g)(1) of this section.

* * * * *

3. Part 567, Certification, would be amended by adding a new subparagraph (2) to § 567.5(a) to read:

§ 567.5 [Amended]

(a) * * *

(2) "Code number" followed by the code number assigned pursuant to § 566.7 of this chapter to the manufacturer identified in accordance with § 567.5(a)(1).

4. Part 567, Certification, would be amended by adding "and code number assigned pursuant to § 566.7 of this chapter" following "name" in paragraph 567.5(a)(3) and paragraphs 567.5 (c) and (d).

PART 568—VEHICLES MANUFACTURED IN TWO OR MORE STAGES

§§ 568.4 and 568.5 [Amended]

5. Part 568, Vehicles manufactured in two or more stages, would be amended by adding ", code number assigned pursuant to § 566.7 of this chapter," following "name" in §§ 568.4(a)(1) and 568.5.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

6. Section 571.106, Hydraulic brake hoses, would be amended by changing paragraphs S5.1.2.2(c) to read:

§ 571.106 Standard No. 106; hydraulic brake hoses.

* * * * *

(c) The hose manufacturer's code number assigned pursuant to § 566.7 of this chapter.

* * * * *

7. Section 571.108, Lamps, reflective devices, and associated equipment, would be amended by changing S4.8.1(d), to read:

§ 571.108 Standard No. 108; Lamps, reflective devices, and associated equipment (effective Jan. 1, 1972).

* * * * *

(d) The manufacturer's code number assigned pursuant to § 566.7 of this chapter, and model designation or part number

8. Section 571.116 (as effective July 1, 1973), Motor vehicle brake fluids, would be amended by changing S5.2.2.2(b) and subparagraph S5.2.2.3(a), to read:

§ 571.116 Standard No. 116; motor vehicle brake fluid (effective Mar. 1, 1972, with amendments effective Aug. 29, 1972).

* * * * *

S5.2.2.2 * * *

(b) The name of the packager of the brake fluid or the code number assigned pursuant to § 566.7 of this chapter.

* * * * *

S5.2.2.3 * * *

(a) The name of the packager of the brake fluids or the code number assigned pursuant to § 566.7 of this chapter.

* * * * *

9. § 571.125, Warning devices, would be amended by adding new paragraph S5.1.4(d), to read:

§ 571.125 Standard No. 125; warning devices (effective Jan. 2, 1974).

* * * * *

(d) The code number assigned pursuant to § 566.7 of this chapter.

* * * * *

10. § 517.126, Truck-camper loading, would be amended by adding new paragraph S5.1.1(f), to read:

§ 517.126 Standard No. 126; truck-camper loading.

* * * * *

(f) "Code number" followed by the manufacturer's code number assigned pursuant to § 566.7 of this chapter.

* * * * *

11. Section 571.205, Glazing materials, would be amended to institute a new code for glazing material manufacturers by changing S6.2 to read:

§ 571.205 Standard No. 205; glazing materials.

* * * * *

S6.2 Each prime glazing material manufacturer shall certify each piece of glazing material to which this standard applies that is designed as a component of any specific motor vehicle or camper, pursuant to section 114 of the National Traffic and Motor Vehicle Safety Act of 1966, by adding to the mark required by S6.1 in letters and numerals of the size specified in section 6 of ANS Z26, the symbol "DOT" and the code number assigned pursuant to § 566.7 of this chapter.

* * * * *

12. Section 571.208, Occupant crash protection, would be amended by adding new paragraph S9.3, to read:

§ 571.208 Standard No. 208; occupant crash protection (effective Jan. 1, 1972, with amendments effective Jan. 1, 1973).

* * * * *

S9.3 Each pressure vessel and explosive device shall be permanently and legibly marked or labeled with the manufacturer's code number assigned pursuant to § 566.7 of this chapter and the symbol DOT constituting a certification by the manufacturer that the device complies with all applicable motor vehicle safety standards.

13. Section 571.209, Seatbelt assemblies, would be amended by changing paragraph S4.1(k), to read:

§ 571.209 Standard No. 209; seatbelt assemblies.

* * * * *

(k) *Marking.*—Each seatbelt assembly shall be permanently and legibly marked or labeled with:

(i) Year of manufacture, model, and name of manufacturer or distributor, or manufacturer code number assigned pursuant to § 566.7 of this chapter.

(ii) The symbol DOT, or a statement that the seatbelt assembly complies with all applicable motor vehicle safety standards.

* * * * *

14. § 571.211, Wheel nuts, wheel disks, and hubcaps, would be amended by redesignating the contents of "S4 Requirements" as "S4.1, Winged Projections," and adding a new section "S4.2, Labeling," to read:

§ 571.211 Standard No. 211; wheel nuts, wheel disks, and hubcaps.

* * * * *

S4.2 *Labeling.*—Each wheel nut, wheel disk, and hubcap shall be permanently and legibly marked or labeled with the manufacturer's code number assigned pursuant to § 566.7 of this chapter and the symbol DOT, constituting a certification by the manufacturer that the device complies with all applicable motor vehicle safety standards.

* * * * *

15. § 571.213, Child seating systems, would be amended by revising paragraph S4.1(a), to read:

§ 571.213 Standard No. 213; child seating systems.

(a) The manufacturer's name, the code number, assigned pursuant to § 566.7 of this chapter, and certification by the manufacturer that the child seating system complies with all applicable motor vehicle safety standards. However * * *

* * * * *

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5221, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered by the Administration. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The Administration will continue to file relevant material, as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Comment closing date.—September 7, 1973.

Proposed effective date.—September 1, 1974.

(Secs. 103, 119, Public Law 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1407; delegation of authority at 38 FR 12147.)

Issued on June 1, 1973.

JAMES E. WILSON,
Associate Administrator
Traffic Safety Programs.

[FR Doc.73-11399 Filed 6-6-73;8:45 am]

Office of Pipeline Safety

[49 CFR Parts 192, 195]

[Notice 73-1; Docket No. OPS-23]

BENDING LIMITATIONS

Advance Notice of Proposed Rulemaking

The Office of Pipeline Safety (OPS) is considering amending the pipeline safety regulations set forth in part 192 for gas pipelines and part 195 for liquid pipelines to provide more realistic pipe bending limitations and to make the standards in this regard for gas and liquid pipelines consistent insofar as practicable. The need for revised standards in connection with bending limitations has become evident with the development of the internal bending mandrel and recent industry use of reels on barges.

This advance notice of proposed rulemaking is being issued pursuant to the OPS's policy for instituting rulemaking proceedings in an appropriate situation prior to formulating a specific rule proposal. An advance notice is issued when it is found that the resources of the OPS and reasonable outside inquiry do not yield a sufficient basis to identify and select a tentative course or alternate courses of action, or where it would be helpful to invite public participation in the identification and selection of a course or alternate courses of action. The subject matter of this notice involves a situation contemplated by that policy.

Interested persons are invited to participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the Director, Office of Pipeline Safety, Department of Transportation, Washington, D.C. 20590. All communications received on or before August 6, 1973, will be considered by the Director before taking further action in the matter. All comments will be available, both before and after the closing date for comments, for examination by interested persons. If it is determined to be in the public interest to proceed further, after consideration of the available data and comments received in response to this notice, a notice of proposed rulemaking will be issued. Such notice may propose to amend the part 192 requirements or the part 195 requirements, or both, as appropriate.

The reel barge technique has been developed by industry for laying pipelines offshore. Essentially, the pipeline is fabricated onshore and spooled onto a reel on a barge. The barge is then towed to location and the pipeline is unspooled along the right-of-way. During the spooling of pipe 12 inches or more in diameter, bends in excess of that allowed by part 192 occur. However, during the laying operation, the pipe is unreeled and straightened so that there is little or no bend in the installed position. From the technical evidence presently available, there is no indication or reduction in the structural integrity of the pipe due to the repeated bending without

an internal mandrel that occurs during the reeling process.

The bending deflection limitation of the gas safety regulations was adopted from the ANSI B 31.8 Code where it was placed prior to the development of the internal bending mandrel. Except in bending operations involving reeling as described above, the mandrel supports the inside wall of the pipe during bending thereby reducing the possibility of wrinkles, buckling, or collapsing. There is evidence now that, by using the mandrel, bends larger than those allowed under current regulations may safely be made.

In order to determine whether industry advances, such as the barge reel and internal bending mandrel and increased technical knowledge, justify a rule change, the OPS requires information in three general areas. The first of these areas relates to the present deflection limitation and the factors on which it is based; the second area concerns the nondestructive testing of girth welds subject to bending; the third involves the identification and measurement of mechanical damage resulting from bends.

So that the required information may be elicited in the form most useful to the OPS, commentators are asked to respond to the various questions propounded below and to include supporting data wherever possible. These questions are numbered consecutively for ease of reference and each is intended to denote a broad subject within one of the three major areas of inquiry. In addition, since information concerning industry techniques and the fundamental technology of bends is limited, the OPS encourages the submission of any other comments which may be of assistance in formulating new standards even though such comments may not be in direct response to any of the questions.

Section 192.313(a)(3) presently permits a maximum deflection of 1½ degrees in a length of pipe equal to the diameter on pipe having a diameter of 12 inches or more. Part 195 contains no comparable bending limitation. Information concerning deflection limitation is required in the following areas:

1. Establishment or revision of the maximum deflection limit.

(a) Why should or should not a maximum deflection limit be established?

(b) What criteria should be considered in establishing a maximum deflection limit?

(c) If a maximum limit is established, what should its numerical value be in degrees per length of pipe equal to the diameter and what are the reasons for that value?

2. Strain and wall thinning as criteria for setting a bending limit.

(a) Should the amount of strain that occurs during bending be used to set a bending limit, and, if so, what is the criterion?

(b) Should the amount of wall thinning that occurs during bending be used as a bending limit and, if so, what is the criterion?

3. Relation of diameter to wall thickness (D/t) ratio to a maximum limit on bending.

(a) Is there technical merit to setting a D/t ratio above which (i.e. for thin wall piping) a maximum limit on bending would be established and at or below which (i.e. for thick wall piping) there would be no bending limit specified?

(b) If the answer to (a) is yes, what is the proper numerical value of D/t and the reasons for that value?

(c) If the answer to (a) is yes, what should be the maximum limit on bending for the thin wall piping?

4. Please document any recent research or testing conducted relative to the bending of pipe. It is requested that the documentation include the scope of the research or test, when and by whom conducted, and the results.

Section 192.313(b) requires that each circumferential weld of steel pipe that is subjected to stress during bending must be nondestructively tested. This requirement does not specify whether the test is to be performed before or after bending. Part 195 does not contain a comparable requirement. Information concerning the nondestructive testing requirement is sought based on the following questions:

5. Is it a sound technical approach to require girth welds located in bend sections to be nondestructively tested—

(a) After the bend is completed when formed in a field bending machine?

(b) Before bending when the pipe is to be bent by the reeling process as on a reel barge? In this connection, is the strain induced by the reeling sufficient to require nondestructive testing after the reeling?

6. Should the decision whether to nondestructively test before or after bending be based on a strain limit? What other criteria could be employed in reaching that decision?

7. Should a standard other than "subjected to stress during bending," as currently included in § 192.313(b), be used to determine when a weld in a bend section must be nondestructively tested?

Section 192.313(d) requires, in part, that bends in gas pipelines must be free of mechanical damage. Section 195.212(b) states a similar requirement for liquid pipelines. With regard to mechanical damage, the following questions pertain:

8. For purposes of these rules, how should mechanical damage be defined and what are the criteria for determining what constitutes mechanical damage?

9. After pipe has been bent, what mechanical tests should be performed on pipe bends to determine if damage has been caused during the bending process?

10. Prior to actually engaging in a pipeline construction project—

(a) What criteria should be established to insure that there will be no damage to the pipe to be used in that particular project considering the maximum bend that will be required?

(b) Should test bends be formed on representative samples of pipe in order to determine the maximum bend which will be allowed for the pipe to be used in that particular construction project?

(c) If test bends are formed on representative samples, should coupons be removed from the test bend sections to check the mechanical properties of the pipe at the maximum bends to be used?

This advance notice of proposed rulemaking is issued under the authority of section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1672), sections 831–835 of title 18, United States Code, section 6(e)(4) of the Department of Transportation Act (49 U.S.C. 1655(e)(4)), § 1.58(d) of the regulations of the Office of the Secretary of Transportation (49 CFR 1.58(d)), and the redelegation of authority to the Director, Office of Pipeline Safety, set forth in appendix A to part 1 of the regulations of the Office of the Secretary of Transportation (49 CFR pt. 1).

Issued in Washington, D.C., on May 31, 1973.

JOSEPH C. CALDWELL,
Director,
Office of Pipeline Safety.

[FR Doc.73-11358 Filed 6-6-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19727]

FM BROADCAST STATIONS IN NEW BERN AND MOREHEAD CITY-BEAUFORT, N.C.

Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.202(b), *Table of assignments*, FM Broadcast Stations. (New Bern and Morehead City-Beaufort, N.C.) docket No. 19727, RM-1981.

1. On April 25, 1973, the Commission adopted a notice of proposed rulemaking in the above-captioned proceeding. Publication was given in the FEDERAL REGISTER on May 3, 1973, 38 FR 10968. Comment and reply comment dates are presently designated as June 6 and June 15, 1973, respectively.

2. On May 30, 1973, V.W.B. Inc., licensee of Station WSFL(FM), Bridgeton, N.C., filed a request for an extension of time for 14 days to file comments. V.W.B., Inc., states that its counsel and engineering consultant, during the past 30 or more days, have been unable to prepare meaningful and helpful comments in the instant proceeding because of other activities before the Commission on behalf of the principals of V.W.B., Inc., concerning a standard broadcast station in New Bern, N.C., of which they, in partnership are the licensee.

3. It appears that the requested extension is warranted: *Accordingly, it is or-*

dered, That the dates for filing comments and reply comments are extended to and including June 20 and June 29, 1973, respectively.

Adopted: May 31, 1973.

Released: June 1, 1973.

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.73-11373 Filed 6-6-73;8:45 am]

[47 CFR Part 97]

[Docket No. 19723]

RADIO AMATEUR CIVIL EMERGENCY SERVICES

Order Extending Time for Filing Comments

In the matter of inquiry into the provisions of Subpart F, Radio Amateur Civil Emergency Services (RACES), in Part 97, docket No. 19723.

1. The Chief, Safety and Special Radio Services Bureau, acting under delegated authority has under consideration a request filed by the American Radio Relay League, Inc. (ARRL), for extension of time for filing comments in the above-entitled proceeding. The prescribed time for filing comments expires on July 1, 1973 (38 FR 10467). The petitioner has requested that the prescribed time be extended to September 4, 1973.

2. In support of its request the ARRL states that the additional time is required because the notice of inquiry inviting comments will not be reported to the vast majority of the ARRL's and RACES' members until the June issue of QST magazine is published and that because of the distances involved the June issue will not reach many members in the lower 48 States until the middle of June and may not be delivered to members in Alaska and Hawaii until after due date of July 1, 1973. The ARRL will be unable to complete meaningful comments without having the views of members on the west coast, Alaska, and Hawaii.

3. A period of more than 60 days is normally sufficient time to apprise amateurs. However, the Commission notes that in an earlier docket relating to the RACES program a lack of positive responses prevented definitive action on the proposal. The Commission is concerned that all interested amateurs and RACES members be informed and have the opportunity to participate in this proceeding. It is also interested in the reasoned comments of the ARRL.

4. It appears that the additional time requested by the ARRL would not unduly delay action and the comments would be useful to the Commission in formulating proposed rules in this area.

5. In view of the foregoing: *It is ordered*, Pursuant to §§ 0.331(b)(4) and 1.46 of the Commission's rules, that the time for filing comments in the above captioned proceeding is extended from July 1, 1973, to September 4, 1973.

Adopted and Released: June 1, 1973.

[SEAL] JAMES E. BARR,
Chief, Safety and Special Radio Services Bureau.

[FR Doc.73-11374 Filed 6-6-73;8:45 am]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 121]

SMALL BUSINESS SIZE STANDARDS

Proposed Size Standards Differentials

The purpose of this notice is to advise the public that the Small Business Administration proposes to amend the "Small Business Size Standards Regulation" to provide that an applicant for assistance under section 7(a) of the Small Business Act (Act) or assistance from a small business investment company or assistance from a development company in connection with a loan under section 501 or 502 of the Small Business Investment Act of 1958, as amended, is entitled to a 25 percent size standards differential if it presently maintains or operates a plant, facility, or business establishment in an area of substantial unemployment or underemployment and agrees to use the assistance within such area, or if it does not maintain a plant, facility, or other business establishment within such area, agrees to utilize the assistance for the establishment and/or operation of a plant, facility, or other business establishment within such area.

Under the currently effective size regulation, the term "area of substantial unemployment" means an area which is classified by the Department of Labor either as an area of substantial unemployemnt or an area of substantial and persistent unemployment and such classification has been listed in that Department's publication, "Area Labor Market Trends," continuously from September 15, 1961, until a size determination is made. Under the currently effective regulation the differential is applicable not only to assistance under section 7(a) of the Act and assistance from a development company in connection with a section 501 or 502 loan, but also to assistance under section 8(a) of the Act.

It is the view of this Agency that the continuity requirement is not in the public interest and precludes SBA assistance to concerns currently in areas where such assistance is sorely needed to combat unemployment and otherwise benefit economically distressed areas. It is also the Agency's view that the differential should not apply to any procurement assistance and, therefore, that it should not be applicable for the purpose of assistance under section 8(a) of the Act.

Accordingly, it is proposed to amend part 121 of chapter I of title 13 of the Code of Federal Regulations by:

1. Revising § 121.3-2(d) to read as follows:

§ 121.3-2 Definition of terms used in this part.

* * * * *

(d) "Area of substantial unemployment," for the purpose of small business size determination, means a geographical area within the United States which is classified by the Department of Labor either as an, "Area of substantial unemployment," or an, "Area of substantial and persistent unemployment."

* * * * *

2. Revising § 121.3-7(b) to delete the reference to section 8(a) so that § 121.3-7(b) will read as follows:

§ 121.3-7 Differentials.

* * * * *

(b) Substantial or persistent unemployment areas; areas of concentrated unemployment or underemployment; certified eligible concerns; and redevelopment areas.

(1) *Assistance under section 7(a) of the Small Business Act.*—Notwithstanding any other provision of this part, the applicable size standards for the purposes of assistance under section 7(a) of the Act are increased by 25 percent whenever the concern maintains or operates a plant, facility, or other business establishment within an area of substantial unemployment or underemployment or redevelopment area as defined in § 121.3-2(d) and (u) or is designated as a certified eligible concern by the Department of Labor and agrees to use the assistance within such area or, if it does not maintain a plant, facility, or other business establishment within such area, agrees to utilize the assistance for the establishment and/or operation of a plant, facility, or other business establishment within such area.

(2) *Small business investment companies and development companies.*—Notwithstanding any other provision of this part, the size standard for a small business concern receiving assistance from a small business investment company or receiving assistance from a development company in connection with section 51 or section 502 loan is increased by 25 percent whenever such concern qualifies for a similar differential under paragraph (b)(1) of this section.

(3) *Government procurement assistance, sales of Government property and Government subcontracting.*—This paragraph is not applicable to size determinations for the purpose of Government procurement assistance, sales of Government property or Government subcontracting.

Interested parties may file with the Small Business Administration on or before June 22, 1973, written statements of facts, opinions, or arguments concerning the proposal.

All correspondence shall be addressed to:

William L. Pellington,
Director, Office of Industry Studies and Size Standards,
Small Business Administration,
1441 "L" Street NW.
Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Programs Nos. 59.012, Small Business Loans; 59.011, Small Business Investment Companies; and 59.013, State and Local Development Company Loans.)

Dated May 24, 1973.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.73-11339 Filed 6-6-73;8:45 am]

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1972 Rev., Supp. No. 19]

AID INSURANCE COMPANY (MUTUAL)

Surety Companies Acceptable on Federal Bonds; Change of Name

Allied Mutual Insurance Company, an Iowa corporation, has formally changed its name to AID Insurance Company (Mutual), effective March 20, 1973. Documents evidencing the change of name are on file in the Treasury.

A new Certificate of Authority as an acceptable surety on Federal bonds, dated March 20, 1973, has been issued by the Secretary of the Treasury to AID Insurance Company (Mutual), Des Moines, Iowa, under sections 6 to 13 of title 6 of the United States Code, to replace the certificate issued July 1, 1972 (37 FR 13594, July 11, 1972), to the company under its former name, Allied Mutual Insurance Company. The underwriting limitation of $2,595,000 previously established for the company remains unchanged.

The change in name of Allied Mutual Insurance Company does not affect its status or liability with respect to any obligation in favor of the United States or in which the United States has an interest, which it may have undertaken pursuant to the Certificate of Authority issued by the Secretary of the Treasury.

Certificates of Authority expire on June 30 each year, unless sooner revoked and new certificates are issued on July 1, so long as the companies remain qualified (31 CFR, pt. 223). A list of qualified companies is published annually as of July 1, in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Copies of the circular, when issued, may be obtained from the Treasury Department, Bureau of Accounts, Audit Staff, Washington, D.C. 20226.

Dated June 1, 1973.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[FR Doc.73-11364 Filed 6-6-73;8:45 am]

Office of the Secretary

ELECTRONIC COLOR SEPARATING OR SORTING MACHINES FROM THE UNITED KINGDOM

Antidumping; Determination of Sales at Less Than Fair Value

JUNE 5, 1973.

Information was received on August 14, 1972, that electronic color separating or sorting machines from the United Kingdom 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").

A "Withholding of Appraisement Notice" issued by the Assistant Secretary of the Treasury was published in the FEDERAL REGISTER of March 6, 1973 (38 FR 6083).

I hereby determine that for the reasons stated below, electronic color separating or sorting machines from the United Kingdom are being, or 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)).

Statement of reasons on which this determination is based.—The information before the Bureau of Customs reveals that the proper basis of comparison for fair value purposes is between purchase price and the adjusted home market price of such or similar merchandise.

Purchase price was calculated on the basis of the f.o.b. U.S. port price, with deductions for inland freight, air freight, brokerage fees, commissions, and U.S. duty, as appropriate.

Home market price was calculated on the basis of the ex-factory price with deductions for discounts and a tradein allowance. Adjustments were made, where appropriate, for selling expenses not exceeding the commission in the export market, differences in the merchandise, differences in technical assistance, and differences in packing costs.

Using the above criteria, purchase price was found to be lower than the adjusted home market price of such or similar merchandise.

The U.S. Tariff Commission is being advised of this determination.

This determination is being published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)).

[SEAL] EDWARD L. MORGAN,
Assistant Secretary of the Treasury.

[FR Doc.73-11501 Filed 6-6-73;10:09 am]

STEEL WIRE ROPE FROM JAPAN

Antidumping; Determination of Sales at Less Than Fair Value

JUNE 5, 1973.

Information was received on July 11, 1972, that steel wire rope from Japan was 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").

A "Withholding of Appraisement Notice" issued by the Assistant Secretary of the Treasury was published in the FEDERAL REGISTER of March 9, 1973 (38 FR 6414), and an amendment thereto, also issued by the Assistant Secretary of the Treasury, was published in the FEDERAL REGISTER of April 18, 1973 (38 FR 9607).

I hereby determine that, for the reasons stated below, steel wire rope from Japan is being, or is 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)).

Statement of reasons on which this determination is based.—The information before the Bureau of Customs indicates that the proper basis of comparison for fair value purposes is between purchase price or exporter's sales price, as appropriate, and the adjusted home market price of such or similar merchandise.

Purchase price was calculated on the basis of a f.o.b. Japanese port price, with deductions for inland freight and other shipping charges, as appropriate.

Exporter's sales price was calculated on the basis of the resale price of the related firm to the unrelated purchaser in the United States, with deductions for bank charges, transportation charges in the United States and Japan, ocean freight and insurance, selling commission, and U.S. duty.

Home market price was calculated on the basis of a weighted-average delivered price of such or similar merchandise with deductions, as appropriate, for inland freight and other shipping charges. Adjustments, as appropriate, were made for differences in packing, credit costs, and advertising expenses.

Using the above criteria, purchase price or exporter's sales price, as appropriate, was found to be lower than the adjusted home market price of such or similar merchandise.

The U.S. Tariff Commission is being advised of this determination.

This determination is being published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)).

[SEAL] EDWARD L. MORGAN,
Assistant Secretary of the Treasury.

[FR Doc.73-11500 Filed 6-6-73;10:09 am]

DEPARTMENT OF THE INTERIOR

Geological Survey

MISSISSIPPI, MONTANA, AND WYOMING

Definitions of Known Geologic Structures of Producing Oil and Gas Fields

Pursuant to 43 CFR 3100.7, notice is hereby given that the known geologic

structures of producing oil and gas fields have been defined as follows:

NAMES OF FIELD, EFFECTIVE DATE, ACREAGE

(24) MISSISSIPPI

Crooked Creek, June 13, 1972, 561.
Wesley Chapel, June 1, 1972, 283.

(26) MONTANA

Goose Lake, March 28, 1973, 9,966.

(50) WYOMING

Breen, December 29, 1972, 1,480.
Chan, Southeast, February 23, 1973, 3,521.
Kayo, January 17, 1973, 10,740.
Payne, January 12, 1973, 5,003.

Maps and diagrams showing the boundaries of the defined structures have been filed with the appropriate land office of the Bureau of Land Management and are also of record in the Geological Survey, Washington, D.C.

HENRY W. COULTER,
Acting Director.

JUNE 1, 1973.

[FR Doc.73-11333 Filed 6-6-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

NEBRASKA NATIONAL FOREST MULTIPLE USE ADVISORY COMMITTEE

Notice of Meeting

The Nebraska National Forest Multiple Use Advisory Committee will meet at 9:30 a.m. m.d.t., June 23, 1973, at the Forest Service Office, Wall, S. Dak. The purpose of this meeting is to tour the east half of the Buffalo Gap National Grassland to observe and discuss various land management practices.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor, 270 Pine Street, Chadron, Nebr. 69337, phone 308-432-3367.

The Committee has established the following rules for public participation:

1. Members of the public may present oral statements at any time during the discussions.

2. Any member of the public who wishes to do so may file a written statement with the Committee, either before or after the meeting.

J. MERLE PRINCE,
Forest Supervisor.

JUNE 1, 1973.

[FR Doc.73-11324 Filed 6-6-73;8:45 am]

PRESCOTT NATIONAL FOREST GRAZING ADVISORY BOARD

Notice of Meeting

The Prescott National Forest Grazing Advisory Board will meet at 9 a.m. on June 19 and 20, 1973, on the Antelope Hills Allotment, Chino Valley Ranger District, Prescott National Forest. The purpose of this meeting is to review items of mutual interest to grazing permittee and the Forest Service pertaining to the Antelope Hills Grazing Allotment, Chino Valley Ranger District.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor, Prescott National Forest, 344 South Cortez Street, Prescott, Ariz., telephone No. 602-445-4860, extension 311. Written statements may be filed with the Board before or after the meeting.

The Board has established the following rules for public participation:

Members of the public will be given an opportunity for comments and questions following discussion by the Advisory Board.

JAMES L. KIMBALL,
Forest Supervisor.

JUNE 1, 1973.

[FR Doc.73-11323 Filed 6-6-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[FAP 3H2923]

WEST CHEMICAL PRODUCTS, INC.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 3H2923) has been filed by West Chemical Products, Inc., 42-16 West Street, Long Island City, N.Y. 11101, proposing that § 121.2547, Sanitizing solutions (21 CFR 121.2547) be amended to provide for the use of isopropyl alcohol as an optional adjuvant rather than a required ingredient in the sanitizing solution described in paragraph (b)(5) of this section.

The environmental impact analysis report, and other relevant material, have been reviewed and it has been determined that the above-mentioned proposal will not have a significant environmental impact. Copies of the environmental impact analysis report are available from the Office of the Assistant Commissioner for Public Affairs, room 15B-42, or the Office of the Hearing Clerk, room 6-88, 5600 Fishers Lane, Rockville, Md. 20852.

Dated May 30, 1973.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.73-11390 Filed 6-6-73;8:45 am]

Social Security Administration

ADVISORY COMMITTEE ON MEDICARE ADMINISTRATION, CONTRACTING, AND SUBCONTRACTING

Notice of Public Meeting

Notice is hereby given, pursuant to Public Law 92-463, that the Advisory Committee on Medicare Administration, Contracting, and Subcontracting, established pursuant to section 1114(f) of the Social Security Act, as amended, which advises the Secretary of Health, Education, and Welfare on medicare matters, will meet on Wednesday, June 13, 1973, at 9 a.m. in room 145, Federal Reserve Bank Building, 33 Liberty Street, New York, N.Y. The meeting is open to the public. The Committee will consider matters relating to subcontracting.

Further information on the Committee may be obtained from Mr. Max Perlman, Executive Secretary of the Committee, room 585 East Building, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-9134. Members of the public planning to attend should send written notice of intent to the Executive Secretary.

(Catalog of Federal Domestic Assistance Prgoram No. 13.800, Health Insurance for the Aged—Hospital Insurance, and 13.801, Health Insurance for the Aged—Supplementary Medical Insurance.)

Dated June 1, 1973.

MAX PERLMAN,
Executive Secretary, Advisory Committee on Medicare Administration, Contracting, and Subcontracting.

[FR Doc.73-11411 Filed 6-6-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA-Pet-No. 80]

VALDOSTA SOUTHERN RAILROAD CO.

Notice of Petition for Exemption From Hours of Service Act

MAY 24, 1973.

The Valdosta Southern Railroad Co. has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for an exemption, with respect to certain employees, from the Hours of Service Act, 45 U.S.C. 61, 62, 63, and 64.

Interested persons are invited to participate by submitting written data, views or comments. Communications should identify the docket number and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, attention: Docket FRA-Pet-No. 80, 400 Seventh Street SW., Washington, D.C. 20590. Communications received before June 28, 1973, will be considered by the Federal Railroad Administrator before taking final action. All comments received will be available for examination by interested persons at any time during regular working hours in room 5428, Nassif Building, 400 Seventh Street, SW., Washington, D.C.

EDWARD F. CONWAY, JR.,
Acting Assistant Chief Counsel for Safety Regulation.

[FR Doc.73-11338 Filed 6-6-73;8:45 am]

Office of the Secretary

[OST Docket No. 22; Notice 73-6]

STANDARD TIME ZONE BOUNDARIES

Operating Exception

Effective July 1, 1973, the Union Pacific Railroad Co. is granted an exception

from the standard time of the time zones created by Congress in the act of March 18, 1918, as amended by the Uniform Time Act of 1966 (15 U.S.C. 260–67). The exception permits operation under mountain standard time from Huntington, Oreg., to the eastern limits of La Grande, Oreg., despite the fact that the area concerned is in the Pacific standard time zone. This exception does not, however, permit the railroad in its public schedules and notices to show the area concerned as being in other than the Pacific standard time zone.

(Act of Mar. 18, 1918, as amended by the Uniform Time Act of 1966, (15 U.S.C. 260–67); sec. 6(e)(5) of the Department of Transportation Act (49 U.S.C. 1655(e)(5); § 1.59(a) of the Regulations of the Office of the Secretary of Transportation (49 CFR 1.59(a).)

Issued in Washington, D.C., on June 1, 1973.

JOHN W. BARNUM,
General Counsel.

[FR Doc.73-11392 Filed 6-6-73;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-3]

CONSOLIDATED EDISON CO. OF NEW YORK, INC.

Notice of Issuance of Amendment to Facility License

The Atomic Energy Commission (the Commission) has issued, effective as of the date of issuance, amendment No. 4 to provisional operating license No. DPR-5. Provisional operating license No. DPR-5 authorizes Consolidated Edison Co. to possess, use, and operate the Indian Point Station Unit 1 located in Westchester County, N.Y. The amendment deletes section 3.D. on reporting requirements from the license because change No. 50, that is being issued concurrently, incorporates the reporting requirements in the technical specifications of provisional operating license No. DPR-5.

The Commission has found that the application for amendment complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations published in 10 CFR, chapter I. The Commission has made the findings (relating to its review of the application) which are set forth in the amendment and has concluded that the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public. The Commission also has found that prior notice of this amendment is not required since the amendment does not involve significant hazards considerations.

For further details with respect to this amendment, see (1) the licensee's application for amendment dated November 24, 1972, and (2) the amendment to provisional operating license No. DPR-5, which are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. A copy of item (2) may be obtained upon request sent to the U.S. Atomic Energy Commission, Washington, D.C. 20545, attention: Director of Licensing.

Dated at Bethesda, Md., this 23d day of May 1973.

For the Atomic Energy Commission.

ROBERT J. SCHEMEL,
Chief, Operating Reactors Branch No. 1, Directorate of Licensing.

[FR Doc.73-11386 Filed 6-6-73;8:45 am]

[License No. 20-07875-02E]

GCA CORP.

Notice of Issuance of Byproduct Material License

Please take notice that the Atomic Energy Commission has, pursuant to § 32.26 of 10 CFR, part 32, issued license No. 20-07875-02E to GCA Corp., GCA Technology Division, Bedford, Mass. $1730, which authorizes the distribution of models RDM-101, RDM-201, and PMM-1 dust monitors to persons exempt from the requirements for a license pursuant to § 30.20 of 10 CFR, part 30.

1. The devices are designed to measure the mass concentration of airborne dust particles. Dust drawn into the device is deposited on an impaction disc or filter paper. The mass concentration is then automatically determined from the increase in the attentuation of the beta particles emited by carbon 14.

2. The byproduct material incorporated in the device is carbon in a polyimide binder contained in sources manufactured by New England Nuclear. The maximum activity contained in the unit is 100 microcuries.

3. Each exempt unit will have a label identifying the manufacturer (GCA Corp.) and the byproduct material (carbon 14) contained in the unit. The instruction manual recommends that the unit be returned to the GCA technology division for repair or disposal.

A copy of the license and a safety evaluation containing additional information, prepared by the Directorate of Licensing, are available for public inspection at the Commission's public document room at 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., May 31, 1973.

For the Atomic Energy Commision.

JAMES C. MALARO,
Chief Materials Branch, Directorate of Licensing.

[FR Doc.73-11385 Filed 6-6-73;8:45 am]

[Docket No. 50-410]

NIAGARA MOHAWK POWER CORP.

Notice of Availability of Final Environmental Statement

Pursuant to the National Environmental Policy Act of 1969 and the U.S. Atomic Energy Commission's regulations in appendix D to 10 CFR part 50, notice is hereby given that the final environmental statement prepared by the Commission's directorate of licensing, related to the proposed 9-Mile Point Nuclear Station Unit 2, to be constructed by Niagara Mohawk Power Corp. in Oswego County, N.Y., is available for inspection by the public in the Commission's public document room at 1717 H Street NW., Washington, D.C. and in the Oswego City Library, 120 East Second Street, Oswego, N.Y. 13126. The final environmental statement is also being made available at the New York State Office of Planning Services, 488 Broadway, Albany, N.Y. 12207 and at the Central New York Regional Planning and Development Board, 321 East Water Street, Syracuse, N.Y. 13202.

The notice of availability of the draft environmental statement for the 9-Mile Point Nuclear Station Unit 2, and requests for comments from interested persons was published in the FEDERAL REGISTER on January 17, 1973 (38 FR 1959). The comments received from Federal, State, local and interested members of the public have been included as appendices to the final environmental statement.

Single copies of the final environmental statement may be obtained by writing the U.S. Atomic Energy Commission, Washington, DC 20545, attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 4th day of June 1973.

For the Atomic Energy Commission.

WM. H. REGAN, Jr.,
Chief, Environmental Projects Branch No. 4, Directorate of Licensing.

[FR Doc. 73-11384 Filed 6-6-73;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 25398; Order 73-6-8]

AIR CARRIER DISCUSSIONS

Order Concerning Air Freight Credit, Billing, and Collection Practices

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of June 1973.

By petition filed April 9, 1973, Allegheny Airlines, Inc. (Allegheny) requests the Board to authorize carrier discussions of air freight rules and practices[1] including the billing and collection cycles, and the possibilities of uniform rules and practices through an industry clearing house.

Petitioner states that the Board's recent proposal[2] to require reporting of indirect air carrier delinquent accounts would be unduly burdensome, and that in

[1] Agreement CAB 6105-A32 on billing and collection periods, approved Sept. 4, 1962, by order E-18769, is in effect on behalf of most of the direct air carriers.

[2] EDR-238, notice of proposed rulemaking, dated Dec. 12, 1972, docket 24999, wherein the Board noted that a large percentage of receivables from air freight forwarders was more than 30 days old.

lieu thereof, the direct carriers would like to explore the feasibility of a clearing house concept in which shippers (including forwarders) would also participate. Accordingly, Allegheny asks that shippers also be authorized to join in such discussions.[3] American Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., Frontier Airlines, Inc., The Flying Tiger Line Inc., North Central Airlines, Inc., Southern Airways, Inc., Trans World Airlines, Inc., and United Air Lines, Inc., support the Allegheny petition. Although supporting the petition, the Air Freight Forwarder Association (AFFA) expresses concern for protective measures to insure against direct air agreements on revised credit rules and practices which might be adverse to the interests of the forwarders. In addition, AFFA asks that all discussions by the direct air carriers be conducted jointly with the indirect air carriers.

The industry, both direct and indirect air carriers, has reached the stage of development where the criteria for the extension of air freight credit, and billing and collection practices should be administered on a reasonable and uniform basis. The competitive nature of the air freight industry, insofar as the credit and collection practices are concerned, is such that it is highly unlikely that unilateral improvements in such practices could be effected by any one or only several carriers. However, multilateral discussions among the carriers and with their customers, will provide an opportunity for the carriers to formulate uniform reasonable and equitable standards and we find that such discussions would be in the public interest.

In addition, discussion might lead to the opening of the airlines' clearing house to forwarders and shippers, or to the use of various bank or other similar payment plans, which may contribute to the stabilization of credit criteria and lessen the collection delinquency problems.

As in similar instances of carrier discussions (Docket 18720), the Board believes that the carriers should be exposed to shipper/forwarder views during the course of their discussions and prior to the conclusion of any final agreement. The Board has previously been asked by AFFA to permit only joint discussions among direct and indirect air carriers, and has previously denied this request.[4] Suffice it to say here that, as carriers, the direct air carriers are entitled to design their own rules and practices, and the indirect air carriers are entitled to participate as shippers or to draw their own competitive rules as carriers.

The Board concludes that the request as hereinafter conditioned should be granted, and will authorize such discussions for a period of 120 days. As in the past, the Board will also condition its approval to permit the attendance of Board observers.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 412, and 414 thereof:

It is ordered, that:

1. All U.S. certificated route air carriers engaged in interstate or overseas air transportation are authorized for a period of 120 days from the date of this order to engage in discussions with respect to air freight credit, billing, and collection practices in interstate or overseas air transportation;

2. An agenda of matters to be discussed shall be filed with the Board in this docket at least 5 calendar days in advance with respect to any meeting called pursuant to this order to be attended by only direct air carriers;

3. An agenda of matters to be discussed shall be filed with the Board in this docket at least 15 calendar days in advance with respect to any meeting called pursuant to this order to be attended by both direct air carriers and shippers (including indirect air carriers);

4. Any interested shipper (including indirect air carriers) may advise Allegheny Airlines, Inc., that it is interested in these discussions, and all meeting notices and agendas shall also be mailed to such interested shippers and indirect air carriers with such notice to include an invitation to submit comments upon the agenda matters and to request appointments for personal appearances at the carrier's meetings;[5]

5. The Board reserves the right to have one or more observers in attendance at all meetings of the carriers;

6. Complete and accurate minutes shall be kept of all meetings and a true copy thereof filed with the Board not later than 15 days (excluding Saturdays and Sundays) after the conclusion of each meeting; and

7. Any agreement or agreements reached as a result of such discussions shall be filed with the Board in accordance with section 412 of the act and approved by the Board prior to being filed in tariffs or otherwise placed into effect.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.73-11401 Filed 6-6-73;8:45 am]

[Docket No. 25588; Order 73-6-5]

AMERICAN AIRLINES, INC.

Order of Investigation and Suspension Regarding Fare Reductions in Four Markets

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of June 1973.

By tariff revisions[1] marked to become effective June 8, 1973, American Airlines, Inc. (American), proposes to reduce its one-way, first-class, and coach fares approximately $3 between New York and St. Louis, and approximately $2 between New York and Cincinnati, Columbus, and Dayton. These are markets in which Trans World Airlines, Inc. (TWA), presently operates its ambassador express service, which permits passengers to carry their baggage aboard and stow it in special bins should they so desire.

In support of its proposal, American alleges adverse competitive impact from TWA's special carryon baggage service, and contends that without the proposed fare reduction it will be forced either to continue operating at a distinct competitive disadvantage, or to adopt a service that it considers to be unnecessary and economically unjustified.

American contends that in very similar circumstances the Board recently permitted TWA to reduce its New York-Los Angeles coach fare for nonlounge service to meet coach-lounge competition, and that American seeks the same consideration that the Board afforded TWA in that case. American further alleges that the provision of special compartments for carryon baggage entails a significant potential drain on the carriers' earnings, and will eventually bring about the very increases in seat-mile costs and reductions in aircraft productivity about which the Board expressed concern in phase 6A of the Domestic Passenger-Fare Investigation. American asserts that its proposed reduction is plainly warranted, since it represents about the same percentage reduction (4 percent) as the decrease in TWA's available seats to which it relates.

TWA has filed a complaint alleging that American has failed to justify its proposal on economic grounds in that no attempt has been made to show to what extent it has been disadvantaged, nor has it quantified, even in the broadest sense, the competitive impact which it alleges the carryon service has had on it or any other carrier. TWA alleges that American is wrong in drawing a parallel between its use of onboard baggage compartments and coach lounges, and asserts that the difference between the two is not only one of degree but of substance as well. The baggage compartments displace only four first-class seats, whereas installation of lounges on B-747 aircraft entailed the removal of 26 coach seats. Moreover, TWA alleges that its baggage compartments are a service feature, as opposed to lounges which are a luxury frill.

In answer to the complaint, American alleges, inter alia, that the Board has made it clear that proof of adverse competitive impact need not be precisely quantified. American notes that, when TWA proposed its fare reduction to meet coach-lounge competition, the Board found that it had not made the definitive demonstration of competitive harm

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[3] The Board previously authorized such discussions, but the carriers were unable to reach a revised agreement (docket 18720, order E-25340, dated June 23, 1967).

[4] See pages 2-3 of order E-25488 dated Aug. 3, 1967, in docket 18720.

[5] If the carriers so desire, they may appoint a secretary to represent them for the purposes of meeting notices, agendas, minutes of meetings, and the filing of agreements.

[1] Revisions to Airline Tariff Publishers, Inc., agent, Tariff CAB No. 136.

contemplated by phase 6A of the Domestic Passenger-Fare Investigation, but nevertheless permitted TWA's reduction to stand. American further alleges that the maintenance of carryon baggage service causes a substantially greater potential drain on carriers' earnings than does the operation of coach lounges.[3]

Upon consideration of the tariff filing, the justification, complaints, and answer thereto, and other relevant matters, the Board concludes that the proposed fares may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful and should be investigated. We further conclude that the fares should be suspended pending investigation.

The Board is not persuaded that the carryon baggage service is sufficiently similar to provision of coach lounges to warrant or require like treatment. We believe a significant distinction lies in the substantial disparity in seat displacement—four first-class seats versus 26 coach seats in the case of B–747 aircraft. This distinction is enhanced by the fact that the seats displaced by the baggage compartment are located in the first-class section where the pressure on load factor is less than in the coach section. Moreover, we would note that a variation in the range of plus or minus four seats not uncommonly results from individual carriers' decisions as to location of galleys, coat closets, and the like.

We believe it also important to bear in mind that lounge service, by its nature, contains the potential for escalation. This has been apparent in the move towards provision of a second coach lounge, the addition of piano bars and other forms of live entertainment, etc., all of which contribute to a material increase in cost. On the other hand, there would appear no logical reason to anticipate an expansion of carryon baggage service, or an allocation of cabin space beyond that reasonably required to fulfill the service. In this context, we believe it reasonable to consider the carryon option as a new and not inefficient means of satisfying the carriers' obligation to accommodate a passenger's baggage, rather than a service frill introduced for competitive reasons and without any direct connection with the provisions of air transportation.

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

It is ordered, That:

1. An investigation be instituted to determine whether the fares and provisions described in appendix A hereto, and rules, regulations, and practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fares and provisions, and rules, regulations, or practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in appendix A hereto are suspended and their use deferred to and including September 5, 1973, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. Except to the extent granted herein, the complaint in docket 25510 is dismissed;

4. The investigation ordered herein be assigned for hearing before an administrative law judge of the Board at a time and place hereafter to be designated; and

5. Copies of this order be served upon American Airlines, Inc. and Trans World Airlines, Inc. which are made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

APPENDIX A

TARIFF C.A.B. NO. 136 ISSUED BY AIRLINE TARIFF PUBLISHERS, INC., AGENT

On 48th, 49th, 50th, 51st, 52d, 53d and 54th revised pages 172–B, the F- and Y-class fares between Cincinnati and New York/Newark.

On 47th, 48th, 49th and 50th revised pages 174, the F- and Y-class fares between Columbus, Ohio, and New York/Newark.

On 42d, 43d, 44th, 45th and 46th revised pages 176, the F- and Y-class fares between Dayton and New York/Newark.

On 44th, 45th, 46th and 47th revised pages 184, the F- and Y-class fares between New York/Newark and St. Louis.

[FR Doc.73-11402 Filed 6-6-73;8:45 am]

[Docket Nos. 21866-6A, 25587; Order 73-6-4]

CONTINENTAL AIR LINES, INC., AND UNITED AIR LINES, INC.

Order Regarding Fare Reduction

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of June 1973.

By tariff revisions[1] marked to become effective June 2, 1973, United Air Lines, Inc. (United), proposes to reduce the level of coach and economy fares by $10 between Chicago and Los Angeles on B–747 aircraft operated without a lounge in the rear compartment.[2] The existing coach and economy fares of $116.67 and $104.63 would continue to apply on aircraft operated with lounge accommodations. The lower fares would apply to travel commencing on or after July 15, 1973, and bear an expiration date of July 14, 1974.

Continental Air Lines, Inc. (Continental), also effective June 2, 1973, proposes to match United's fare reductions,[1] but does not propose to restrict their applicability to loungeless aircraft.

In justification of its proposal United alleges that its purpose is to implement further recent moves by United and other carriers, with the Board's express approval, to replace lounge and lounge facilities on wide-bodied aircraft with normal seating so that the economies of these aircraft are maximized in light of the continuing economic problems of the industry. United alleges it is facing, in major markets where it competes with Continental, an identical situation to that faced by TWA when it undertook a similar tariff action in the New York-Los Angeles market in January 1973. United alleges that its instant filing is of the same type and for the same reasons as that filed by TWA as discussed in order 73–1–69, January 23, 1973.

Continental has filed a complaint against the proposal requesting suspension and investigation. Continental alleges that it makes no economic sense to eliminate its wide-bodied lounge in view of its low-load factors in this market; that it would be pointless for Continental to spend the money merely to end up with additional empty seats; and that Continental is in no position to reduce its Chicago-Los Angeles frequencies in the vain hope of increasing its load factor as the opposite would occur. Continental alleges that the proposal is merely a tool to pressure it to eliminate its lounge and that this would not benefit the public since a service would be eliminated at no savings in fare.

Continental contends that United has not shown and, in fact, cannot possibly show, that it has suffered an "adverse competitive impact" from Continental; that the Board's 1971 surveys demonstrate that United has a greater share of the Chicago-Los Angeles local and connecting traffic than did Continental; that, in addition, United has access to substantial on-line traffic feed from its points east of Chicago which Continental does not have; and that United's total on-board traffic between Chicago and Los Angeles exceeds Continental's by 60 percent.

Continental alleges that United's proposal is premature; that United still operates its service with lounges and will not have removed all of its wide-bodied lounges until September 1, 1973; that it is therefore not possible to find that United's proposed differential is required for the purpose of avoiding the impact of lounge competition; and that United has provided no cost justification for its proposed $10 reduction representing nearly a 9-percent reduction in the coach and economy fares.

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[3] American claims that provision of special baggage compartments in B–727 and CV–880 aircraft costs TWA some 25-percent more available seat-miles annually than does its operation of coach lounges in B–747 aircraft.

[1] Revisions to Airline Tariff Publishers, Inc. agent, Tariff CAB No. 136.

[2] The lower fare will also apply on United's standard DC–8 aircraft, which contain five nonreclining seats opposite the rear galley. These seats allegedly do not result in any reduction in seating capacity, as they could be replaced by a maximum of five standard coach/economy seats, and are not withheld from sale. United states it operates only one DC–8 flight in each direction equipped in this manner.

Continental alleges that permitting United's tariff to go into effect without also allowing Continental to meet the lower fare would cause Continental to suffer immediate and irreparable injury; that providing lounge service will not offset a lower fare of any appreciable magnitude; that it is no answer to suggest that Continental remove its lounge which could not have been accomplished in time to overcome United's price advantage; and that Continental cannot lawfully be required to remove its lounge under threat of a Board-protected price war by its competitors.

American Airlines, Inc. (American), Trans World Airlines, Inc. (TWA), and United have answered the complaint. In summary one or more allege that United's filing is virtually identical to that recently made by TWA between New York and Los Angeles which the Board permitted; that based on that Board action they are removing their coach lounges on wide-bodied aircraft; that a reversal by the Board of its position, upon which they have now relied and of which Continental has had ample notice, would pose an immense burden on them; that there is no basis for Continental's contention that the Chicago-Los Angeles market cannot be distinguished from the New York-Los Angeles market; and that they cannot afford to operate loungeless aircraft at the same price as offered by Continental for lounge operations.

The carriers also allege that Continental's argument that it is at a competitive disadvantage in the Chicago-Los Angeles market does not reflect the reality of present-day route structures since it ignores its Los Angeles-Hawaii route awarded in 1969; that Continental's argument that removal of coach lounges is not required by current traffic demand is solely a function of its own overcapacity and has no bearing on the merits of lounge versus nonlounge; and that its excessive capacity is a major impediment to achieving reasonable industry load factors on this major route and should not be used as an excuse for maintaining the coach lounge. TWA alleges that Continental's claim that lounge removal would not economically benefit the Chicago-Los Angeles route due to depressed load factors is in error because Continental failed to consider the realities of the emerging airline capacity problem as related to the fuel crisis and other factors; and that Continental seeks to continue ecologically wasteful and economically destructive pursuits which are not in the public interest.

Finally, the carriers allege that Continental's action threatens their ability to continue the lounge removal program underway as a result of the Board's decision in order 73–1–69; and that Continental would not sustain immediate and irreparable damage by reason of its ability to accomplish the conversion of its aircraft in time to overcome United's price advantage as all carriers affected have been able to resolve any timing problems by establishing mutually acceptable programs for the removal of their wide-bodied lounges. American alleges that it cannot afford to allow Continental to have such a service advantage, but that it cannot isolate wide-bodied equipment on its Chicago-Los Angeles route, and accordingly it has decided to halt its coach lounge removal program.

The various arguments in support of or in opposition to Continental's proposal [2] essentially are repetitive of those advanced by the carriers with regard to United's proposal as summarized above and will not be repeated here.

By order 73–1–69, January 23, 1973, the Board dismissed complaints and permitted to become effective a similar proposal by TWA in the Los Angeles-New York market. The Board noted that virtually all carriers faced with lounge competition considered this service a sufficient competitive advantage to warrant, if not require, introduction of a similar service, and expressed its view that it seems only reasonable to conclude that the lounge results both in a higher value of service to the passenger and higher unit costs to the carrier, both of which would justify a somewhat lower fare for nonlounge services. We continue to be of this view.

Continental does not argue that the lounge is not an effective competitive weapon. Rather, it argues that in the Chicago-Los Angeles market, due to an alleged route disadvantage, it cannot compete with a fare differential.[4] On the other hand, the carriers believe, and the Board concurs, that the lounge is a very effective competitve device, and we therefore see no basis pending our final resolution of the matter in phase 6A of the domestic passenger fare investigation, to preclude carriers who wish to discontinue this uneconomic service from establishing a reasonable fare differential to remain competitive with lounge operators. Whether or not other factors place Continental at a disadvantage, as alleged, has nothing to do with the higher value of service to the passenger and higher unit costs to the carrier resulting from the coach lounge.

In our opinion in phase 6A, we indicated our concern with the impact of lounges on carrier economics, and stated our expectation that lounges would be discontinued when the service no longer served a useful purpose. Nothing has occurred since which would warrant a change in our position. If anything, the necessity for efficient use of aircraft capacity has grown stronger. First, the impending energy crisis must not be ignored. It would indeed be ironic, and possibly of significant detriment to air transport service, if the carriers retain their lounges and later are forced by a fuel shortage to cut back schedules. Should schedule curtailments become necessary it seems imperative that the space taken up by lounges be refitted with conventional coach seats.[5]

Second, to the extent that Board-approved capacity reduction agreements and individual carrier actions result in eliminating excessive capacity not reasonably required to serve the traveling public, there is a heightened need for more efficient use of aircraft capacity. By the same token, it is possible that the additional seat capacity stemming from removal of lounges may permit a somewhat greater reduction in frequencies without inconvenience to the traveling public than would otherwise be feasible.

Thus, we continue to believe that lounges are an unnecessary potential drain on the carriers' earnings, which will doubtless be felt more as load factors improve. Most carriers appear to concur in this position as they either do not operate lounges or are planning to eliminate them as competition permits. Continental alleges that it does not need the extra seats its lounge forecloses, which may be true at the present time. On the other hand, the same is not true of the other carriers who are seeking to discontinue this unnecessary frill, which results in higher unit costs not recognized by the Board for ratemaking purposes. In our opinion, they would not have a reasonable opportunity to remain competitive with a lounge operator absent some price advantage to offset the higher value of service represented by the lounge.

Regarding the reasonableness of the proposed reductions, United's $10 reduction appears to be reasonably related to the fully allocated cost of the lounge service, and the resulting fare does not appear to be unreasonably low. On the other hand, Continental's similar reductions, combined with the continued operation of lounge services, results in fares which we believe may be unreasonable.

In view of the above, and upon consideration of all relevant matters, the Board has determined to dismiss the complaints and permit United's proposal to become effective. We conclude, however, that Continental's proposed fares may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful and should be investigated. The Board further concludes that the fares should be suspended pending investigation.

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

It is ordered, That:

1. An investigation be instituted to determine whether the "Y" and "K" class fares and provisions between Chicago and Los Angeles on 63d and 64th revised pages 231 to Airline Tariff Publishers, Inc., agent's CAB No. 136 and rules, regulations, and practices affecting such fares and provisions are or will be unjust,

[2] Complaints were filed by American, TWA, and United.

[4] We note that for 3 years preceeding introeffective competitive device, and we Continental outcarried all its competitors.

[5] Although Continental's lounge seats are not withheld from sale, the more commodious lounge configuration nevertheless displaces seats.

unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fares and provisions and rules, regulations, or practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the "Y" and "K" class fares and provisions between Chicago and Los Angeles on 63d and 64th revised pages 231 to Airline Tariff Publishers, Inc., agent's, CAB No. 136, are suspended and their use deferred to and including August 29, 1973, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The complaint in docket 25483 is hereby dismissed;

4. Except to the extent granted herein the complaints in dockets 25526, 25528, and 25530 are hereby dismissed;

5. The proceeding ordered herein be assigned for hearing before an administrative law judge of the Board at a time and place hereafter to be designated; and

6. Copies of this order to be served in the aforesaid tariff and served on American Airlines, Inc., Continental Air Lines, Inc., Trans World Airlines, Inc., and United Air Lines, Inc., which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,*
Secretary.

[FR Doc.73-11403 Filed 6-6-73;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

TECHNICAL ASPECTS OF TRICYCLE SAFETY

Notice of Public Meeting

Reports of injuries to children associated with the use of tricycles have been noted by the Consumer Product Safety Commission through the Commission's national electronic injury surveillance system. Followup investigations show that most of these injuries are lacerations to the head and face inflicted when the tricycle tips and the child's head strikes the pavement or other ground surface.

A Government financed study by the Calspan Corp. (formerly Cornell Aeronautical Laboratory) also has found that the stability of tricycles is highly sensitive to and can be influenced by design variables such as turning radius, wheel size, and center of gravity.

The Consumer Product Safety Commission will hold a public meeting to discuss those technical characteristics (design or performance variables) which might be considered in an appropriate product safety standard, should a finding of need be established by the Commission.

The meeting will be held at 9:30 a.m., Wednesday, June 27, 1973, in room 227, Westwood Towers Building, 5401 Westbard Avenue, Bethesda, Md.

The meeting will be open to the public. Members of the public who wish to participate should submit by Wednesday, June 20, 1973, their names and any issues they wish to discuss. Such submissions should be addressed to the Consumer Product Safety Commission, attention: Mr. Don Early, Office of Standards Coordination and Appraisal, 5401 Westbard Avenue, Washington, D.C. 20016.

Copies of recommended safety characteristics for tricycles have been furnished to manufacturers for technical study. A limited number of additional copies will be available at the meeting.

Industry representatives who plan to attend are asked to notify Mr. Don Early, Chief, Industry Liaison Staff, Office of Standards Coordination and Appraisal, 301-496-7197, by June 20, 1973.

Dated June 4, 1973.

SAMUEL M. HART,
Acting Secretary,
Consumer Product Safety Commission.

[FR Doc.73-11418 Filed 6-6-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 73-588]

DAKOTA BROADCASTING CO., INC.

Applications for Filing for Consrtuction Permits for New Television Broadcast Stations

JUNE 1, 1973.

The Commission's decision (32 FCC 2d 196), which denied the applications of Eli and Harry Daniels, doing business as The Heart of the Black Hills Stations, for renewal of the licenses of television broadcast stations KRSD-TV, channel 7, Rapid City, S. Dak., and KDSJ-TV, channel 5, Lead, S. Dak., will become final within a short period of time. In accordance with the Commission's decision, notice is hereby given that on the day of May 31, 1973, the Commission, on its own motion, waived § 1.516(c) of the Commission's rules, and accepted for filing the following commercial television applications.

Dakota Broadcasting Co., Inc. (new) Rapid City, S. Dak. Channel 7, 174-180 MHz. ERP: Visual 196 kW, aural 19.6 kW. HAAT: 744 feet. Coordinates: 44-04-06 103-15-03

Dakota Broadcasting Co., Inc. (new) Lead, S. Dak. Channel 5, 76-82 MHz, ERP: Visual 100 kW, aural 10 kW. HATT: 1900 feet. Hours of Operation: Proposed satellite of Channel 7, Rapid City, S. Dak. Coordinates: 44-19-40 103-50-05

Notice is also given that other interested parties may file applications for either or both channels. The Commission will also accept requests, pursuant to § 1.592(b) of the rules, for joint interim operating authority for either or both channels. In order to promote the orderly conduct of the Commission's business, the Commission has determined to fix a date certain after which no new applications for either or both channels will be accepted for filing. Therefore, notice is hereby given that, in order to be entitled to comparative consideration, applications for construction permits for new television broadcast stations to operate on channel 7, Rapid City, S. Dak., and/or channel 5, Lead, S. Dak., and any applications for joint interim operating authority for either or both channels, must be substantially complete and tendered for filing no later than July 16, 1973.

Action by the Commission May 31, 1973. Commissioners Burch (Chairman), Robert E. Lee, Johnson, Reid, Wiley, and Hooks, with Commissioner H. Rex Lee concurring.

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

[FR Doc.73-11369 Filed 6-6-73;8:45 am]

TECHNICAL STANDARDS SUBCOMMITTEE OF THE PBX STANDARDS ADVISORY COMMITTEE

Notice of Meeting

JUNE 1, 1973.

In accordance with Public Law 92-463, announcement is made of a public meeting of the Technical Standards Subcommittee of the PBX Standards Advisory Committee to be held June 26, 27, and 28, 1973 at 1229 20th Street NW., room A-110, Washington, D.C. The meeting will commence at 10 a.m. on June 26.

1. *Purpose.*—The purpose of this subcommittee is to prepare recommended standards and procedures to permit the interconnection of customer provided and maintained PBX equipment to the public switched network without the need for carrier provided connecting arrangements.

2. *Activities.*—As at prior meetings, subcommittee members and observers present their suggestions and recommendations regarding the various technical criteria and standards that should be considered with respect to the interconnection of PBX equipment to the public telephone network. The task group on equipment standards for nonbarrier PBX will complete its recommendations regarding ringing voltages and dial pulse requirements.

3. *Agenda.*—The agenda for the June 26-28 meeting will be as follows:

June 26: Task groups on interface criteria, equipment standards for nonbarrier PBX.
June 27:
a. Task group on on-site inspection standards.
b. Voice/nonvoice task group.
June 28:
a. Request for public statements.
b. Discussion of letter of March 6, 1973, sent to B. Strassburg by Robert J. Braunlin regarding "customer-provided certified VCA . . ." program.
c. Review of task group meetings.
d. Review of priorities and schedules.
e. Arrangements for next meeting.

4. *Public participation.*—The public is invited to attend this meeting. Any member of the public wishing to file a written statement with the committee, may do so before or after the meeting.

* Dissenting statement of Murphy, Member, filed as part of the original document.

It is suggested that those desiring more specific information, contact the Domestic Rates Division on 202-632-6457.

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

[FR Doc.73-11370 Filed 6-6-73;8:45 am]

[FCC 73-595]

IDENTIFICATION OF SOURCE OF, OR PARTY SUPPLYING, CERTAIN BROADCAST MATTER

JUNE 1, 1973.

It has long been the practice of some government departments, agencies, legislators, and other parties, including private businesses and trade associations, to furnish prerecorded material to broadcast stations, either by means of long-distance telephone or by supplying audio or video tape or film. Such actions by the parties furnishing such recorded material constitute no violation of the Communications Act.

However, allegations recently have been made that in broadcasting such material, some broadcast licensees have misled the public by identifying the source of the material as their own news correspondents and that some licensees have failed to comply with the requirements of the following rules: Section 73.119(d) for AM stations, § 73.289(d) for commercial FM stations, § 73.503(d) for noncommercial educational FM stations, § 73.654(d) for TV stations, and § 73.621(e) for noncommercial educational TV stations. (See appendix for text of rules.)

The Commission views with concern any deliberate and substantial misrepresentation to the public by a licensee, such as falsely claiming that a broadcast originates from its news correspondent, and we consider such practices as raising questions as to the qualifications of a licensee.

Further, in connection with recorded program material furnished to a licensee which involves discussion of political or controversial public issues and which is furnished as an inducement to the broadcast of such material, the Commission calls the attention of licensees to the above-cited provisions of its rules requiring that an announcement be made that such material has been so furnished to the station.

Action by the Commission May 31, 1973. Commissioners Burch (Chairman), Robert E. Lee, Johnson, H. Rex Lee, Reid, Wiley, and Hooks.

APPENDIX

The text of the identical rules to which reference is made in paragraph 2 of the Public Notice relating to commercial AM, FM, and TV stations follows:

(d) In the case of any political program or any program involving the discussion of public controversial issues for which any records, transcriptions, talent, scripts, or other material or services of any kind are furnished, either directly or indirectly, to a station as an inducement to the broadcasting of such program, an announcement shall be made both at the beginning and conclusion of such program on which such material or services are used that such records, transcriptions, talent, scripts, or other material or services have been furnished to such station in connection with the broadcasting of such program: *Provided, however,* That only one such announcement need be made in the case of any such program of 5 minutes' duration or less, either at the beginning or conclusion of the program.

The cited rules for noncommercial educational FM and TV stations in paragraph 2 of the Public Notice provide that such noncommercial stations are subject to the provisions of the referenced rules for commercial FM and TV stations "to the extent that they are applicable to the broadcast of programs produced by, or at the expense of, or furnished by others * * *"

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

[FR Doc.73-11371 Filed 6-6-73;8:45 am]

NON-BELL SYSTEM COMPANIES

Waivers of Certain Computer Rules

MAY 31, 1973.

By its 1971 decision in docket No. 16979 relating to the interdependence of computer and communications services, the Commission adopted rules generally prohibiting communications common carriers from engaging directly in the furnishing of data processing services to others. However, in that decision the Commission, in effect, waived its rules to specify that data processing services furnished by the Bell System telephone companies to independent telephone companies in connection with inter-carrier arrangements between the Bell System and independent telephone companies could continue to be furnished. The Commission stated:

> We turn now to the question respecting data processing services that the Bell System companies perform for themselves and for independent telephone companies in connection with inter-carrier arrangements and traffic. In view of Bell's and the independent's position in oral argument, and the fact that there was voiced no opposition to such arrangements, we find that no need presently exists to interrupt this practice. We hasten to add that the above decision is premised, in part, upon the understanding that charges to the independent telephone companies for these data processing services are designed to and are fixed at levels sufficient to compensate only for actual costs. Accordingly, so long as the data services performed by the Bell System companies are incidental to the inter-carrier provision of communication services, and so long as costs associated therewith are shared proportionately by the participating carriers, such practices may be continued. (28 FCC 2d at page 282)

There was no intent by the Commission to indicate that the aforementioned exemptions with regard to inter-carrier arrangements were justifiable only where data processing services are performed by the Bell System. The same principles warrant exemptions under like circumstances where a carrier other than a Bell System company provides similar data processing services. Accordingly, waivers of § 64.702 (b), (c), and (d) of the Commission's rules are hereby granted to any communications carrier to perform for itself and any other communications carrier data processing services that are incidental to the inter-carrier provision of communications service pursuant to inter-carrier arrangements between such carriers (e.g. billing information, settlement data, traffic studies, and other communications service-related operations data) provided that any charges made to the other carrier or carriers for such services are fixed at levels sufficient to compensate only for actual costs that are shared proportionately by such carriers.

This action is taken by the Chief, Common Carrier Bureau, pursuant to authority delegated by 47 CFR 0.303(f).

FEDERAL COMMUNICATIONS COMMISSION
[SEAL] BERNARD STRASSBURG,
Chief,
Common Carrier Bureau.

[FR Doc.73-11372 Filed 6-6-73;8:45 am]

FEDERAL HOME LOAN BANK BOARD

FEDERAL SAVINGS AND LOAN ADVISORY COUNCIL

Notice of Meeting

MAY 31, 1973.

Pursuant to section 10(a) of Public Law 92-463, entitled the Federal Advisory Committee Act, notice is hereby given of the meeting of the Federal Savings and Loan Advisory Council on Monday, Tuesday, and Wednesday, June 25, 26, 27, 1973. The meeting will commence at 9 a.m. on June 25, at 9 a.m. on June 26, and at 9 a.m. on June 27 at the Madison Hotel, 15th and M Streets NW., Washington, D.C., in the Arlington Room.

MONDAY, JUNE 25

9-11 a.m.—General discussion.
2:30 p.m.—Updating insurance of accounts maximum.
2:45 p.m.—Service corporations engaging in mortgage business over State lines.
3 p.m.—Authority of FHLBanks to allow overnight or overweekend deposits to S&L's.
3:30 p.m.—365/360 Interest calculation.

TUESDAY, JUNE 26

Review of $45,000 limitation and 20 percent category.
Philosophy and reaction to proposed schedule of fees of FHLBanks.
Waive regulation to include 1/12 annual hazard insurance premium in monthly payments on over 80 percent loans provided the lender is protected by a master policy or some type of blanket coverage.
Service corporations—
a. Capitalization;
b. Increase borrowing ratio or delete loans by parent corporation to the service corporation.
Seven percent net worth limitation—cash dividends.
Increase authority to attract $100,000 certificates in excess of current three percent and maturities.
Reserve regulations—additional apartment category for less than five percent net worth associations.

Participations—purchases from other S&L's should be treated same as purchases from FHLMC.

Collateral limitations—

a. FHLBanks advances be changed to provide that loans in excess of $40,000 may be used to collateralize advances;

b. Increase present authority to borrow up to 65 percent of pledged advances to 80 percent;

c. Request Bank staff develop program to assist individual associations in event of rapid withdrawals (runs).

WEDNESDAY, JUNE 27

9–11 a.m.—General discussion.

The meeting will be open to the public on June 25 from 9–5, on June 26 from 9–5, and on June 27 from 9–5.

CARL O. KAMP, Jr.,
Acting Chairman,
Federal Home Loan Bank Board.

[FR Doc.73–11387 Filed 6–6–73;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RP73–106]

CITIES SERVICE GAS CO.

Extension of Time and Postponement of Hearing

JUNE 1, 1973.

On May 29, 1973, Cities Service Gas Co. filed a request for an extension of the procedural dates as fixed by the order issued May 8, 1973, in the above designated matter. The request states that all parties, including the Gas Service Co. and Union Gas System, Inc., have no objection to the request.

Upon consideration, notice is hereby given that the procedural dates are modified as follows:

Service of Cities' prepared testimony and exhibits, June 12, 1973.
Service of Interveners' prepared testimony and exhibits, June 26, 1973.
Hearings for cross-examination, July 2, 1973 (10 a.m., e.d.t.)

KENNETH F. PLUMB,
Secretary.

[FR Doc.73–11419 Filed 6–6–73;8:45 am]

[Docket No. CP73–296]

COLORADO INTERSTATE GAS CO.

Notice of Application

MAY 31, 1973.

Take notice that on May 7, 1973, Colorado Interstate Gas Co., a division of Colorado Interstate Corp. (Applicant), P.O. Box 1087, Colorado Springs, Colo. 80944, filed in docket No. CP73–296 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain gas transmission facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon by sale to the city of Trinidad, Colo., the southernmost section of the 8-inch Trinidad lateral pipeline and a part of the Trinidad Power Plant meter station located at the southern terminus of the 8-inch pipeline near the city of Trinidad. In order to continue to measure the direct gas sales to the city of Trinidad, Applicant intends to retain the meter runs and measurement equipment at the station. Applicant states that the city of Trinidad will operate the remainder of the station facilities as well as the pipeline as a part of its own natural gas distribution system and that, therefore, there will be no abandonment of service to the city. Applicant proposes the subject abandonment to remove these transmission facilities from congested areas.

Applicant states the net book value of the pipeline facilities to be approximately $4,805 and the value of the measurment facilities to be $2,400.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 19, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

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

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

KENNETH F. PLUMB,
Secretary.

[FR Doc.73–11420 Filed 6–6–73;8:45 am]

[Docket No. CP73–206]

CONSOLIDATED GAS SUPPLY CORP. ET AL.

Joint Petition for Declaratory Order or for Certificates of Public Convenience and Necessity

MAY 31, 1973.

Take notice that, on May 25, 1973, Consolidated Gas Supply Corp. (Consolidate), 445 West Main Street, Clarksburg, W. Va. 26301; Algonquin Gas Transmission Co. (Algonquin), 1284 Soldiers Field Road, Boston, Mass. 02135; Long Island Lighting Co. (LILCo), 250 Old Country Road, Mineola, N.Y. 11501; Public Service Electric & Gas Co. (Public Service), 80 Park Place, Newark, N.J. 07101; Texas Eastern Transmission Corp. (Texas Eastern), Southern National Bank Building, Houston, Tex. 77001; and Transcontinental Gas Pipe Line Corp. (Transco), P.O. Box 1396, Houston, Tex. 77001 (Original Petitioners), together with the Brooklyn Union Gas Co. (Brooklyn Union), 195 Montague Street, Brooklyn, N.Y. 11201; Elizabethtown Gas Co. (Elizabethtown), One Elizabethtown Plaza, Elizabeth, N.J. 07207; New Jersey Natural Gas Co. (New Jersey Natural), 601 Bangs Avenue, Asbury Park, N.J. 07712; Philadelphia Electric Co. (Philadelphia Electric), 2301 Market Street, Philadelphia, Pa. 19101; and Philadelphia Gas Works (PGW), Municipal Services Building, Philadelphia, Pa. 19102 (Additional Petitioners), the "Original Petitioners" and "Additional Petitioners" hereinafter referred to collectively as "Petitioners", filed in docket No. CP73–206, first amendment to joint petition filed by Original Petitioners February 2, 1973, for a declaratory order or, alternatively, for limited-term certificates of public convenience and necessity with pregranted abandment authorizing proposed 1973–74 emergency natural gas operations and transactions (notice published February 15, 1973, in FEDERAL REGISTER, 38 FR 4535).

By the first amendment, Petitioners apply for:

A. Limited-term certificates of public convenience and necessity, with pregranted abandonment, authorizing the emergency natural gas exchange, sale and purchase, and storage operations and transactions, as Petitioners propose to undertake in 1973–74 to conserve natural gas and to ameliorate or avert critical winter shortages and as described fully below, pursuant to § 2.70, Measures for the Protection of Reliable and Adequate Natural Gas Service, of the Commission's statements of general policy and interpretations under the Natural Gas Act (18 CFR 2.70), for the period extending from June 1, 1973, through March 31, 1974; and

B. Temporary certificates authorizing the emergency operations and transactions herein proposed, pursuant to section 157.17 of the Commission's regulations under the Natural Gas Act (18 CFR 157.17), pending the determination of the application for limited-term certificates.

The application for such certificates is upon the express conditions set forth in section IV of the original petition and without prejudice to the request made in such petition for a declaratory order affirming the propriety of pursuing the Commission's 18 CFR 2.68 and 157.22 procedures, or to procedures pursued in any other proceedings by any of Petitioners or other parties, or any claims in respect thereto.

Petitioners state the basic purpose of the first amendment is to secure limited-term certificate authorizations for short-term, summertime emergency deliveries of natural gas during 1973 to Consoli-

dated by Algonquin, Brooklyn Union, Elizabethtown, LILCo, New Jersey Natural, Philadelphia Electric, PGW, and Public Service (sellers or releasing companies) for injection into Consolidated's underground storages, a portion one-third of which will be returned during the 1973–74 winter to the releasing companies for serving domestic and other firm customers, and the remainder two-thirds of which will be purchased by Consolidated and utilized for the benefit of the firm sales and storage service customers supplied through Consolidated. Under the arrangements proposed, Consolidated acquires in the summer for injection into its storages, volumes of natural gas to which the releasing companies have contractual rights and have historically purchased from their pipeline suppliers, and which, absent these arrangements, would be sold or used for electric generation and other low-priority industrial uses. The proposed 1973–74 emergency program is summarized in the tabulation below (volumes in millions of cubic feet at 15.025 lb/in²a):

Name of company	Gas to be received	Gas to be purchased [1]	Storage service [2]	
			Volume	Daily demand
Public Service	6,000	4,000	2,000	17
Algonquin	3,300	2,200	1,100	9
LILCo	3,300	2,200	1,100	9
Brooklyn Union	1,350	900	450	3
Elizabethtown	1,350	900	450	3
New Jersey Natural	1,350	900	450	3
PGW	1,350	900	450	3
Philadelphia Electric	1,350	900	450	3
Total	19,350	12,900	6,450	50

[1] At rate of 64¢/m ft³ (15.025 lb/in²).
[2] At rates contained in Consolidated's GSS rate schedule.

The petition recites that no additional or new facilities will be required to handle the gas under the emergency program here proposed. When Algonquin and the other releasing companies make gas available in the summer, Texas Eastern will deliver the gas to Consolidated at various existing delivery points, all located upstream of the delivery points to the releasing companies. It is contemplated that some of the gas made available by LILCo will consist of volumes purchased by it from Transco and will be delivered by Transco to Texas Eastern at existing points of interconnection. The natural gas stored during the 1973 summer for the accounts of the releasing companies [1] will be returned by Consolidated through Texas Eastern at average daily rates approximating the volumes set forth in the tabulation above.

Petitioners assert that the proposed emergency natural gas operations are needed to ameliorate the short supply situations confronting Petitioners served by Texas Eastern and Transco, pointing out that since 1968 such Petitioners have not been able to obtain long-term supplies from traditional suppliers, that since 1971 certain of their pipeline suppliers have been curtailing their deliveries and, further, that supplemental supplies arranged for are being delayed and may not become available until after this next winter. Consequently, such Petitioners have an increasingly critical need for the benefits offered by the emergency gas program projected, whereunder substantial gas volumes that would otherwise be consumed for electric generation and other low-priority industrial uses will instead be "husbanded" through storage to meet the contingencies of the cold weather requirements for higher priority uses not only by Consolidated's customers but by the Other Petitioners served by Texas Eastern and Transco. Petitioners say this upgrading of gas use and fuller utilization of available gas storage facilities are fully consistent with the Commission's policies reflected in its orders Nos. 431 and 467–B.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said petition, as amended, should on or before June 8, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.7 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

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

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

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-11421 Filed 6-6-73;8:45 am]

[1] The initial volumes released are to be stored by Consolidated for the accounts of the releasing companies and the volumes exceeding the storage volumes are to be purchased by Consolidated.

[Docket No. RP72-136]

FLORIDA GAS TRANSMISSION CO.

Proposed PGA Rate Adjustment

MAY 30, 1973.

Take notice that on May 15, 1973, Florida Gas Transmission Co. (Florida Gas) tendered for filing third revised sheet 3-A to its FPC gas tariff, original volume No. 1, containing changes in rates in its rate schedules G and I to become effective on July 1, 1973, which would increase Florida Gas' jurisdictional revenues by $3,102,000 based on sales for the 12 months ended March 31, 1973. The changes in rates result from the application of the purchased gas cost adjustment provision in section 15, general terms and conditions of the tariff, which was approved by the Commission in docket No. RP72-136 on June 30, 1972.

A comparison between the currently effective rates and those to be made effective on July 1, 1973, under this filing is as follows:

	Cents per therm	
	Currently effective	To become effective July 1, 1973
Rate Schedule G	6.485	6.906
Rate Schedule I	5.095	5.516

Florida Gas states that a copy of its filing has been served upon all customers purchasing gas under its FPC gas tariff, original volume No. 1, and the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 12, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-11422 Filed 6-6-73;8:45 am]

[Docket No. E-8008]

FLORIDA POWER & LIGHT CO.

Further Extension of Time

MAY 31, 1973.

On May 25, 1973, Florida Power & Light Co., filed a motion for an extension of time for the filing of supporting sheets to statement M for its 1972 cost of service presentation as required by the notice issued May 2, 1973, in the above designated matter.

Upon consideration, notice is hereby given that the time is extended to June 11, 1973, within which Florida

Power & Light Co. shall file its supporting sheets to statement M for its 1972 cost of service presentation. The other procedural dates remain unchanged and are as follows:

Commission staff testimony and exhibits, September 4, 1973.
Prehearing conference, September 17, 1973 (10 a.m., e.d.t.).
Interveners' testimony and exhibits, September 24, 1973.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-11423 Filed 6-6-73;8:45 am]

[Docket No. ID-1694 etc.]

JAMES A. SWANEY AND H. RAY LANDON

Notice of Applications

MAY 31, 1973.

Take notice that the following applications were filed on the stated dates, pursuant to section 305(b) of the Federal Power Act, for authority to hold the position of officer or director of more than one public utility, or the position of officer or director of a public utility and officer or director of a firm authorized to market utility securities, or the position of officer or director of a public utility and officer or director of a company supplying electric equipment to such public utility.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 12, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

ID-1694, James A. Swaney, April 26, 1973, Delmarva Power & Light Co. of Maryland; Delmarva Power & Light Co. of Virginia.
ID-1695, H. Ray Landon, April 26, 1973, Delmarva Power & Light Co. of Maryland; Delmarva Power & Light Co. of Virginia.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-11429 Filed 6-6-73;8:45 am]

[Docket No. G-13558, etc.]

KIMBELL OIL CO.

Notice of Petition To Amend

MAY 31, 1973.

Take notice that on May 14, 1973, Kimbell Oil Co. (Petitioner), P.O. Box 1540, Fort Worth, Tex. 76101, filed in docket No. G-13558, et al., a petition to amend the orders issuing certificates of public convenience and necessity to Kimbell, Inc., pursuant to section 7(c) of the Natural Gas Act by substituting Petitioner in lieu of Kimbell, Inc., as certificate holder, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it has become the successor to Kimbell, Inc.'s entire interest in the properties from which sales have heretofore been authorized to be made under certificates of public convenience and necessity pursuant to rate schedules on file with the Commission. Petitioner proposes to continue these sales for resale in interstate commerce.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 19, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-11424 Filed 6-6-73;8:45 am]

[Docket No. CP67-16]

MICHIGAN WISCONSIN PIPE LINE CO.

Order Permitting Interventions, Providing for Hearing, and Establishing Procedures

MAY 31, 1973.

On June 29, 1972, Michigan Wisconsin Pipe Line Co. (Mich-Wisc) tendered for filing a revised tariff sheet [1] to its presently effective FPC gas tariff, second revised volume No. 1, constituting its proposed optional curtailment procedure. Concurrently, with the tender of the revised tariff sheet, Mich-Wisc filed a motion for modification of the Commission's order issued in docket No. CP67-16 on December 28, 1966 (36 FPC 1142), to provide for the proposed optional curtailment procedure. Mich-Wisc requests waiver of the requirements of part 154 of the Commission regulations to the extent necessary to permit the sheet to be accepted for filing and made effective on the date of the Commission order of modification is issued.

By the aforementioned order issued in docket No. CP67-16, Mich-Wisc was authorized to construct and operate certain facilities and to make sales for resale under its new rate schedule LVS-1 (large volume special industrial service), at a price of 33.5c/M ft³. As presently in effect, rate schedule LVS-1 is available to distributors for resale to a specified customer or plant and provides that a daily volume equal to 40 percent of the maximum daily quantity (MDQ) is subject to interruption by Mich-Wisc at any time. Mich-Wisc states that under the proposed optional curtailment procedure distributors would have the option to be interrupted by a daily volume equal to 80 percent of the MDQ for 21 consecutive days during the last half of February and the first half of March and by 20 percent of the MDQ for the 42 days immediately preceeding the 21 day 80 percent curtailment period. If the distributor did not want the 80 percent curtailment provision, the present curtailment of 40 percent of the MDQ would still apply.

Although Mich-Wisc asserts that total firm winter sales volumes would remain unchanged under the proposed optional curtailment procedure, there is no showing as to what effect the optional curtailment level would have on Mich-Wisc's ability to serve its high priority customers. Accordingly, the evidentiary hearing hereinafter ordered should develop the factual record on this point as well as any other issues raised by this pleading. Mich-Wisc's tendered tariff filing and the requested waiver related thereto will be disposed of currently with our ultimate decision on Mich-Wisc's motion for modification of the authorization heretofore granted in CP67-16.

Untimely petitions to intervene were filed by Wisconsin Fuel & Light Co., Wisconsin Public Service Corp., and Keokuk Gas Service Co. (Keokuk). Only Keokuk specifically requested a hearing. However, on November 16, 1972, Keokuk withdrew its petition to intervene and now states that it has no objection to the application as filed.

A timely petition to intervene was filed by North Central Public Service Co., division of Donovan Cos., Inc. A timely notice of intervention was filed by the Public Service Commission of Wisconsin.

The Commission finds

(1) Although the petitions of Wisconsin Fuel & Light Co. and Wisconsin Public Service Corp. were not timely filed, good cause exists for permitting such intervention since their participation will not delay the disposition of this proceeding.

(2) It is desirable and in the public interest to permit all of the above-named petitioners to intervene in this proceeding in order that they may establish the facts and the law from which the nature and validity of their alleged rights and interests may be determined and show what further action may be appropriate under the circumstances in the administration of the Natural Gas Act.

(3) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the above-mentioned matters and establish the procedures for said hearing as hereinafter set forth.

The Commission orders

(A) The above-named petitioners are hereby permitted to intervene in this

[1] The tendered tariff sheet is designated as follows: 11th revised sheet No. 12.

proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such interveners shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene: *And provided, further,* That the admission of such interveners shall not be construed as recognition by the Commission that they or any one of them might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) Pursuant to the authority of the Natural Gas Act, particularly section 4, 5, 7, and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR ch. I) a public hearing shall be held on July 17, 1973, at 10 a.m. in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, concerning the issues involved herein.

(C) The case-in-chief in Mich-Wisc and that of any supporting intervener, including prepared testimony and exhibits, shall be filed with the Commission and served upon all parties on or before June 22, 1973.

(D) A presiding administrative law judge to be designated by the Chief Administrative Law Judge—see delegation of authority, 18 CFR 3.5(d)—shall preside at and control this proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure and the purposes expressed in this order.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.73-11425 Filed 6-6-73;8:45 am]

[Docket No. RP73-78]

ORANGE & ROCKLAND UTILITIES, INC.

Postponement of Prehearing Conference

JUNE 1, 1973.

On May 25, 1973, Orange & Rockland Utilities, Inc., filed a motion to extend date of the prehearing conference in the above-designated matter. The motion states that no party had any objection to the motion.

Upon consideration, notice is hereby given that the prehearing conference is postponed to June 29, 1973, at 10 a.m., e.d.t., in a hearing room of the Federal Power Commission at 825 North Capitol Street NE., Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-11427 Filed 6-6-73;8:45 am]

[Project No. 943]

PUBLIC UTILITY DISTRICT

Notice of Extension of Time

MAY 31, 1973.

On May 24, 1973, Public Utility District No. 2 of Grant County, Wash., requested an extension of time within which to file a protest or a petition to intervene as provided in the notice issued April 19, 1973, in the above-designated matter. By letter received May 29, 1973, counsel for PUD No. 2 of Grant County, Wash., advised that Chelan County PUD No. 1 had no objection to the request for the extension of time.

Upon consideration, notice is hereby given that the time is extended to and including June 15, 1973, within which protests or petitions to intervene may be filed in the above matter.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-11426 Filed 6-6-73;8:45 am]

[Rate Schedule Nos. 390, etc.]

SUN OIL CO., ET AL.

Rate Change Filings

MAY 30, 1973.

Take notice that the producers listed in the appendix attached below have filed proposed increased rates to the applicable area new gas ceiling based on the interpretation of vintaging concepts set forth by the Commission in its opinion No. 639, issued December 12, 1972.

The information relevant to each of these sales is listed in the appendix below.

Any person desiring to be heard or to make any protest with reference to said filing should on or before June 12, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

APPENDIX

Filing date	Producer	Rate schedule No.	Buyer	Area
May 18, 1973	Sun Oil Co., P.O. Box 2880, Dallas, Tex. 75221.	390	Tennessee Gas Pipeline Co.	Texas Gulf Coast.
May 21, 1973	Sohio Petroleum Co., 970 First National Center-North, Oklahoma City, Okla. 73102.	26	Transcontinental Gas Pipe Line Corp.	South Louisiana.
Do	do	133	do	Texas Gulf Coast.
Do	do	134	do	Do.

[FR Doc.73-11428 Filed 6-6-73;8:45 am]

[Docket No. CP73-278]

TEXAS EASTERN TRANSMISSION CORP. AND UNITED GAS PIPE LINE CO.

Notice of Application

MAY 31, 1973.

Take notice that on April 16, 1973, Texas Eastern Transmission Corp. (Texas Eastern), P.O. Box 2521, Houston, Tex. 77001, and United Gas Pipe Line Co. (United), 1525 Fairfield Avenue, Shreveport, La. 71101 filed in docket No. CP73-278 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas through existing facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The exchange for which Texas Eastern and United seek authorization is a part of an exchange with Transcontinental Gas Pipe Line Corp. (Transco), in which Transco will transport for Texas Eastern's account up to 8,000 M ft³ per day of natural gas at 14.7 lb/in²a from the Block A-1 Field, Brazos area, offshore Matagorda County, Tex., to United at an existing interconnection in Victoria County, Tex. According to Texas Eastern and United, United is to redeliver equivalent volumes of natural gas to Texas Eastern at another existing point of interconnection in Jackson County, Tex. Texas Eastern and United propose no new facilities in this application.

Texas Eastern states that it is the owner of one-fifth of the reserves underlying the Brazos Block A-1 Field but has no transmission facilities in the area; however, Transco is purchasing natural gas from other interest owners in the field and has available capacity to transport the Texas Eastern volumes. By means of the proposed exchange, Texas Eastern states, it will be able to attach vitally needed gas supplied to its system.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 19, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10), and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and pro-

cedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-11430 Filed 6-6-73;8:45 am]

[Docket No. RP73-101]

TRANSWESTERN PIPELINE CO.

Order Accepting for Filing Tendered Tariff Sheets, Establishing Procedures, and Granting Interventions

MAY 31, 1973.

On April 25, 1973, Transwestern Pipeline Co. (Transwestern) tendered for filing proposed tariff sheets to its FPC gas tariff, first revised volume No. 1.[1] The tendered tariff sheets establish curtailment procedures, eliminate demand charge adjustment credits during certain curtailments, and incorporate minor changes in the wording of certain sections so as to include reference to section 11 of the general terms and conditions where appropriate. Transwestern requests an effective date of June 1, 1973.

Transwestern states that although it has taken all reasonable and prudent steps to avoid a gas supply shortage, these tariff revisions are necessary since it is faced with the definite possibility of reducing natural gas deliveries in the near future.

Transwestern's nine categories contained in § 11.3 are identical to those enumerated in docket No. R-469. The currently effective § 11.3 pertains only to force majeure depletion of gas supply involving rate schedules CDQ-1 and LX and these schedules are available only to Pacific Lighting Service Co. The revised §11.3 applies to rate schedules CDQ-1, CDQ-2, and CDQ-3. Cities Service Gas Co. is the only CDQ-2 or CDQ-3 buyer. The remaining rate schedules are not subject to the proposed curtailment procedures. No deliveries are being made under rate schedule LX and rate schedules SG-1 and RW-1 are to small customers and towns constituting less than 0.4 percent of Transwestern's total 1971 sales. The CDQ schedules accounted for 98.9 percent of 1971 sales. The remaining 0.7 percent of 1971 sales were emergency, field and mainline residential, commercial or industrial sales.

The revised §11.3 provides for a pro rata curtailment within each of the nine categories based on each customer's percentage of total entitlement within each priority when curtailment is necessary due to impaired deliveries of any cause. This section contains an emergency provision to provide relief from environmental emergencies or to forestall irreparable injury to life or property. After buyer establishes that an emergency exists, Transwestern will exempt buyer from curtailment to the extent it is able without creating other emergencies on its system.

Transwestern's proposed new §§ 11.4 and 11.5 eliminate demand charge adjustment credits where curtailment of deliveries is due to a gas supply shortage or to compliance with directives of governmental agencies. Transwestern states that it will bear a share of the costs of curtailment through the fixed costs component included in commodity rates.

Petitions to intervene were filed by the following parties: The people of the State of California and the Public Utilities Commission of the State of California on May 18, 1973; San Diego Gas & Electric Co. on May 18, 1973; Cities Service Gas Co. on May 22, 1973; Southern California Edison Co. on May 22, 1973; and Pacific Lighting Service Co. and Southern California Gas Co. on May 22, 1973.

As previously noted, we take cognizance of the fact that the Transwestern filing reflects priorities for curtailment consistent with our statement of policy in docket No. R-469 issued on January 8, 1973. Petitioners Pacific Lighting Service Co. and Southern California Gas Co. seek a suspension of the tendered filing for the full statutory period. However, no specific grounds are stated in support of the requested suspension. In light of the foregoing we will not suspend Transwestern's tendered tariff filing. Any petitioner can, of course, file a petition for extraordinary relief from application of the filed curtailment plan or file a complaint under section 5(a) of the Natural Gas Act, if his objections relate instead to systemwide aspects of the curtailment plan. Furthermore, should a dispute arise regarding the end-use data to be submitted by Transwestern, as hereinafter ordered, we will at that time act on motions related thereto.

The Commission finds

(1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the proposed tariff sheets tendered by Transwestern on April 25, 1973, should be accepted for filing.

(2) The participation in this proceeding of the above named petitioners may be in the public interest.

The Commission orders

(A) Transwestern's tariff sheets, hereinbefore described, are hereby accepted for filing effective June 1, 1973.

(B) A Staff conference for the purpose of seeking means to obtain end use and other relevant data shall be held with all parties on June 15, 1973, at 10 a.m., e.d.t., in a conference room of the Federal Power Commission.

(C) Transwestern must submit end-use data to the Commission and serve it on all interveners on or before July 16, 1973.

(D) The above-named petitioners are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the admission of such interveners shall not be construed as recognition that they or any of them might be aggrieved because of any order or orders issued by the Commission in this proceeding. If the petitioners wish to allege specific grounds for intervention, they may file separate applications for special relief or complaints under section 5(a) of the Natural Gas Act.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.73-11431 Filed 6-6-73;8:45 am]

[Docket No. RP72-133]

UNITED GAS PIPE LINE CO.

Notice of Purchased Gas Cost Adjustment

MAY 30, 1973.

Take notice that on May 14, 1973, United Gas Pipe Line Co. (United), tendered for filing certain revised tariff sheets, 14th revised sheet No. 4 and 3d revised sheet No. 4a to its FPC Gas Tariff, first revised volume No. 1. The tariff sheets reflect a current adjustment and surcharge adjustment pursuant to the purchased gas adjustment clause of United's tariff. The filing shows that United's average unit cost of purchased gas after the current adjustment is 26.36 c/m ft^3. United states that these tariff sheets and supporting information are being filed 45 days before the effective date of July 1, 1973, pursuant to section 19 of United's tariff, and are in compliance with the provisions of Commission order Nos. 452 and 452-A.

Copies of the revised tariff sheets and supporting data were mailed to United's jurisdictional customers, interested state commissions, and parties to this proceeding.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 12, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Com-

[1] Designated as: Thirty-first revised sheet No. 4, 26th revised sheet No. 6-A, 2d revised sheet No. 6-B, 1st revised sheet No. 6-C, 10th revised sheet No. 6-D, 1st revised sheet No. 6-E, 3d revised sheet No. 30, original sheet No. 30-A, original sheet No. 30-B and 3d revised sheet No. 32-A to Transwestern's FPC gas tariff, 1st revised volume No. 1.

mission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-11432 Filed 6-6-73;8:45 am]

[Docket No. E-8178]

WEST TEXAS UTILITIES CO.

Notice of Cancellation of Rate Schedule

MAY 31, 1973.

Take notice that on April 25, 1973, West Texas Utilities Co. (West Texas), tendered for filing cancellation of its FPC rate schedule No. 15, embodied in a letter agreement dated September 16, 1963, also signed by the city of Vernon, Tex.

West Texas states that the date of termination will be approximately July 1, 1973, but that the actual date depends on the completion of certain facilities. The stated reason for cancellation is that the city of Vernon has made other arrangements which eliminate the need for emergency service provided by the agreement.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 11, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-11433 Filed 6-6-73;8:45 am]

FEDERAL RESERVE SYSTEM

ATLANTIC BANCORPORATION

Acquisition of Bank

Atlantic Bancorporation, Jacksonville, Fla, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)), to acquire 100 percent of the voting shares (less directors' qualifying shares), of Conway Atlantic Bank, Orlando, Fla., a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the reserve bank to be received not later than June 22, 1973.

Board of Governors of the Federal Reserve System, May 31, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-11327 Filed 6-6-73;8:45 am]

BARNETT BANKS OF FLORIDA, INC.

Acquisition of Bank

Barnett Banks of Florida, Inc., Jacksonville, Fla., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of the First National Bank of Bay Harbor Islands, Bay Harbor Islands, Fla. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 27, 1973.

Board of Governors of the Federal Reserve System, May 31, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-11328 Filed 6-6-73;8:45 am]

FIRST AMTENN CORP.

Acquisition of Bank

First Amtenn Corp., Nashville, Tenn., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of First National Bank of Tullahoma, Tullahoma, Tenn. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than June 20, 1973.

Board of Governors of the Federal Reserve System, June 1, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-11329 Filed 6-6-73;8:45 am]

MICHIGAN NATIONAL CORP.

Order Approving Formation of Bank Holding Company; Correction

By Order dated August 3, 1972 (37 FR 16134), the Board approved the application of Michigan National Corp., Lansing Mich., to become a bank holding company. The Statement accompanying that order (1972 Federal Reserve Bulletin 804) stated that the Board's approval was based on a capital improvement program submitted by Michigan National Corp. which included the sale of $10 million in equity securities by December 31, 1973. The Board's statement is hereby amended to state that the sale of $10 million in equity securities is to take place by December 31, 1974.

By order of the Board of Governors.[3]

[SEAL] TYNAN SMITH,
Secretary of the Board.

May 31, 1973.

[FR Doc.73-11330 Filed 6-6-73;8:45 am]

SECURITY NEW YORK STATE CORP.

Order Approving Acquisition of Bank

Security New York State Corp., Rochester, N.Y., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares of First Trust Union Bank, Wellsville, N.Y. (Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

Applicant, a regional upstate holding company and the 16th largest bank holding company in the State, controls seven banks[1] with aggregate deposits of approximately $583 million, representing .6 percent of the total commercial bank deposits in the State. Applicant's share of deposits in the State would not increase significantly upon consummation of the acquisition.

Applicant seeks to acquire Bank (approximately $73 million in deposits), the largest of nine banks in the Olean banking market (approximated by the southern two-thirds of Allegany and Cattaraugus Counties), where it has eight offices; it also has an office in Canaseraga, in the adjoining Hornell banking market,[2] where it ranks 8th of 10 banking organizations in that market. Applicant has no banking facility in the Olean market, but its lead bank operates

[3] Voting for this action: Chairman Burns and Governors Daane, Brimmer, Sheehan, and Bucher. Absent and not voting: Governor Mitchell.

[1] All banking data are as of June 30, 1972, and reflect holding company formations and acquisitions approved through Apr. 30, 1973.

[2] The Hornell banking market is approximated by the southern half of Livingston County, the town of Naples in southern Ontario County, the western third of Steuben County, and the northeastern corner of Allegany County.

five offices and controls 33 percent of deposits in the Hornell market. Although there appears to be no significant competition between applicant's bank in the Hornell market and Bank's operations in the Olean market, Bank's office in Canaseraga ($3 million in deposits, representing 2.6 percent of Hornell market deposits) does compete with two branch offices of applicant's lead bank (located 10 and 12 miles away, respectively). However, because of the small size of the Canaseraga office, the existing competition that would be eliminated by consummation of the proposal is considered to be nominal. In addition, in view of the market's low population to banking office ratio, the limited prospects for economic growth in the area, and the somewhat isolated rural nature of the community, there appears to be little likelihood for the development of any significant amount of future competition between these institutions. Accordingly, the Board concludes that competitive considerations do not weigh heavily against approval of the application.

The financial and managerial resources and future prospects of Bank, and of applicant and its present subsidiary banks, are regarded as satisfactory; and, upon consummation of the acquisition, Applicant proposes to increase Bank's equity capital. Consideration relating to the banking factors are consistent with approval of the application. Applicant has stated that it intends to make full commercial banking and trust services available throughout the service area of Bank, and thus enable Bank to offer services competitive with those offered by the subsidiary banks of large holding companies situated in its market. Considerations relating to the convenience and needs of the community to be served favor approval of the application and outweigh the slightly adverse competitive aspects of the proposal. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of New York pursuant to delegated authority.

By order of the Board of Governors,[1] effective May 31, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-11331 Filed 6-6-73;8:45 am]

[1] Voting for this action: Chairman Burns and Governors Brimmer, Sheehan, and Bucher. Absent and not voting: Governors Mitchell and Daane.

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

AMHERST COAL CO. ET AL.

Applications for Renewal Permits; Notice of Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Interim Mandatory Dust Standard (2.0 mg/m³) have been received as follows:

(1) ICP Docket No. 20280, Amherst Coal Co., Lundale No. 1 Mine, USBM ID No. 46 01365 0, Lundale, W. Va.:
- Section ID No. 002 (Road 5).
- Section ID No. 007 (Road 500).
- Section ID No. 008 (6 right).
- Section ID No. 009 (2A mains).

(2) ICP Docket No. 20381, Pocahantas Fuel Co., Jenkinjones No. 7 Mine, USBM ID No. 46 01412 0, Jenkinjones, W. Va.:
- Section ID No. 002-0 (6-1).
- Section ID No. 003-0 (5 mains).
- Section ID No. 004-0 (Laurel Headings).
- Section ID No. 005-0 (7-1).

(3) ICP Docket No. 20372, Pocahantas Fuel Co., Crane Creek No. 6 Mine, USBM ID No. 46 01586 0 McComas, W. Va.:
- Section ID No. 001-0 (2d left).
- Section ID No. 002-0 (1-A Panel).
- Section ID No. 004-0 (Thomas mains).
- Section ID No. 005-0 (top end mains).

(4) ICP Docket No. 20377, Pocahontas Fuel Co.—Itmann Coal Co., Itmann No. 1 Mine, USBM ID No. 46 01540 0 Itmann, W. Va.:
- Section ID No. 010-0 (Micajah right).
- Section ID No. 011-0 (6 Mains).
- Section ID No. 012-0 (Guyan No. 2).
- Section ID No. 014-0 (Guyan 1/2 panel).
- Section ID No. 015-0 (Micajah right 1 panel).
- Section ID No. 016-0 (Guyan right).
- Section ID No. 017-0 (6 mains right).
- Section ID No. 018-0 (Micajah right 2 panel).
- Section ID No. 019-0 (Guyan left).

(5) ICP Docket No. 20379, Itmann Coal Co., Itmann No. 3 Mine, USBM ID No. 46 01576 0, Itmann, W. Va.:
- Section ID No. 027-0 (Cabin Creek 3 panel).
- Section ID No. 028-0 (west mains 4 panel).
- Section ID No. 029-0 (south mains 3 panel).
- Section ID No. 030-0 (Cabin Creek 5 panel).
- Section ID No. 031-0 (south mains 4 panel).
- Section ID No. 032-0 (Farley 3 panel).
- Section ID No. 033-0 (Farley Longwall).

(6) ICP Docket No. 20380, Itmann Coal Co., Itmann No. 4 Mine, USBM ID No. 46 01577 0, Itmann, W. Va.:
- Section ID No. 021-0 (east mains).
- Sectino ID No. 026-0 (east mains left).
- Section ID No. 027-0 (first left).

(7) ICP Docket No. 20387, Pocahontas fuel Co., Maitland Mine, USBM ID No. 46 01409 0, Welch, W. Va.:
- Section ID No. 001-0 (Carswell left side).
- Section ID No. 003-0 (Carswell-mains right side).
- Section ID No. 006-0 (No. 3 Seam—1st left).
- Section ID No. 007-0 (2d left north diagonal).
- Section ID No. 010-0 (3d left 3 seam).
- Section ID No. 011-0 (2d left 3 seam).
- Section ID No. 012-0 (north mains).
- Section ID No. 014-0 (east mains).

(8) ICP Docket No. 20514, Eastern Associated Coal Corp., Wharton No. 2 Mine, USBM ID No. 46 01809 0, Barrett, W. Va.:
- Section ID No. 007 (3 Bt left 1 west).
- Section ID No. 010 (4 Bt. left 1 west).
- Section ID No. 012 (5 Bt. left 1 west).
- Section ID No. 014 (21 Bt. right 1 south).
- Section ID No. 015 (1 west heading).

(9) ICP Docket No. 20516, Eastern Associated Coal Corp., Wharton No. 4 Mine, USBM ID No. 46 01272 0, Barrett, W. Va.
- Section ID No. 017 (14 left-1 east).
- Section ID No. 018 (10 left-1 east).
- Section ID No. 019 (11 left-1 east).
- Section ID No. 020 (6 left-2 north).
- Section ID No. 021 (13 right-1 north).

(10) ICP Docket No. 20517, Eastern Associated Coal Corp., Wharton No. 5 Mine, USBM ID No. 46 01810 0, Barrett, W. Va.:
- Section ID No. 017 (3 Bt. Rt. 1 South Mains).

(11) ICP Docket No. 20571, United States Steel Corp., Gary District, Mine No. 9, USBM ID No. 46 01418 0, Filbert, W. Va.:
- Section ID No. 003 (moonshine mains).
- Section ID No. 008 (10 right sandlick).
- Section ID No. 013 (2d left Watson).
- Section ID No. 014 (1st left Watson).
- Section ID No. 015 (1st left moonshine east).
- Section ID No. 016 (1st left sandlick haulage).
- Section ID No. 017 (3d left Watson heading).
- Section ID No. 018 (8 right moonshine).

(12) ICP Docket No. 20573, United States Steel Corp., Gary District—Mine No. 14-3, USBM ID No. 46 01417 0, Gary, W. Va.:
- Section ID No. 009 (18 left).
- Section ID No. 013 (6 right-4 left).
- Section ID No. 016 (3 right stable heading).
- Section ID No. 018 (5 left-4 right).
- Section ID No. 020(6 left-4 right).
- Section ID No. 022 (7 right-4 left).
- Section ID No. 025 (2 left returns).

(13) ICP Docket No. 20574, United States Steel Corp., Gary District—Mine No. 50, USBM ID No. 46 01816 0, Pineville, W Va.:
- Section ID No. 001 (Laurel mains).
- Section ID No. 002 (White Oak mains).
- Section ID No. 004 (Reservoir mains).
- Section ID No. 006 (House mains).
- Section ID No. 007 (1st right house mains).
- Section ID No. 009 (2d right house mains).

(14) ICP Docket No. 20797, The Carbon Fuel Co., Morton Mine, USBM ID No. 46 01329 0, Winifrede, W. Va.:
Section ID No. 003 (south mains).
Section ID No. 008 (1st west off south mains).
Section ID No. 010 (2d west off south mains).
Section ID No. 006 (2d east mains bleeder).
Section ID No. 009 (west bin mains).

In accordance with the provisions of section 202(b)(4) (30 U.S.C. 842(b)(4)) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91–173), notice is hereby given that requests for public hearing as to an application for renewal may be filed on or before June 22, 1973. Requests for public hearing must be filed in accordance with 30 CFR part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, room 800, 1730 K Street NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

JUNE 4, 1973.

[FR Doc.73–11388 Filed 6–6–73;8:45 am]

CLINCHFIELD COAL CO. ET AL.

Applications for Renewal Permits; Notice of Opportunity for Public Hearing

Applications for renewal permits for noncompliance with the Interim Mandatory Dust Standard (2.0 mg/m³) have been received as follows:

(1) ICP Docket No. 20215, Clinchfield Coal Co., Moss No. 3 Mine Portal "A", USBM ID No. 44 01462 0, Duty, Dickenson County, Va.:
Section ID No. 011 ("A" mains).
Section ID No. 022 (14 mains).
Section ID No. 004 (2 right).
Section ID No. 005 (1 right).
Section ID No. 006 (7 left).

(2) ICP Docket No. 20218, Clinchfield Coal Co., Open Fork Mine, USBM ID No. 44 00267 0, Herald, Dickenson County, Va.:
Section ID No. 002 (5 right off 2 left).
Section ID No. 003 (2 north mains).
Section ID No. 004 (2 right mains).
Section ID No. 005 (2 right mains parallel).
Section ID No. 006 (1 right off 2 north).

(3) ICP Docket No. 20220, Clinchfield Coal Co., Hagy No. 1 Mine, USBM ID No. 44 01514 0, Prater, Buchanan County, Va.:
Section ID No. 001 (unit No. 1).
Section ID No. 002 (unit No. 2).
Section ID No. 004 (unit No. 3).

(4) ICP Docket No. 20221, Clinchfield Coal Co., Splashdam Mine, USBM ID No. 44 00269 0, Hayst, Dickenson County, Va.:
Section ID No. 001 (unit No. 1).
Section ID No. 002 (unit No. 2).
Section ID No. 004 (unit No. 3).

(5) ICP Docket No. 20223, Clinchfield Coal Co., Hagy No. 2 Mine, USBM ID No. 44 01886 0, Prater, Dickenson County, Va.:
Section ID No. 001 (unit No. 1).
Section ID No. 002 (unit No. 2).

(6) ICP Docket No. 20224, Clinchfield Coal Co., Lambert Fork Mine, USBM ID No. 44 00241 0, Bee, Dickenson County, Va.:
Section ID No. 001 (4 right off 3 east).
Section ID No. 003 (2 right off 3 east).
Section ID No. 004 (3 right off 3 east).
Section ID No. 005 (1 left off south mains).

(7) ICP Docket No. 20225, Clinchfield Coal Co., Smith Gap No. 2 Mine, USBM ID No. 44 02293 0, Carrier, Dickenson County, Va.:
Section ID No. 001 (mains).
Section ID No. 002 (1 right).

(8) ICP Docket No. 20245, Omar Mining Co., Chesterfield No. 5 Mine, USBM ID No. 46 01791 0, Madison, W. Va.:
Section ID No. 002–0 (East Mains).

(9) ICP Docket No. 20393, Kermit Coal Co., No. 1 Mine, USBM ID No. 46 01602 0, Kermit, W. Va.:
Section ID No. 002.

(10) ICP Docket No. 20509, Eastern Associated Coal Corp., Federal No. 2 Mine, ID No. 36 00971 0, Hunker, Pa.:
Section ID No. 013–0 (3-left airways).
Section ID No. 014–0 (longwall block "E").

(11) ICP Docket No. 20541, Eastern Associated Coal Corp., Federal No. 2 Mine, USBM ID No. 46 01456 0, Fairview, W. Va.:
Section ID No. 017 (1 west mains—right side).
Section ID No. 015 (1 west mains—left side).
Section ID No. 007 (2 east airways).

In accordance with the provisions of section 202(b)(4) (30 U.S.C. 842(b)(4)) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91–173), notice is hereby given that requests for public hearing as to an application for renewal may be filed on or before June 22, 1973. Requests for public hearing must be filed in accordance with 30 CFR part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, room 800, 1730 K Street NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

JUNE 4, 1973.

[FR Doc.73–11389 Filed 6–6–73;8:45 am]

NATIONAL MANPOWER ADVISORY COMMITTEE

NOTICE OF MEETING

The National Manpower Advisory Committee will meet at the Department of Labor on June 15. Appointed by the Secretary of Labor in 1962 the Committee makes recommendations to the Secretary relative to the carrying out of his duties under the Manpower Development and Training Act. Members of the Committee are appointed from representatives of labor, management, agriculture, education, training and the public at large. The chairman is Dr. Eli Ginzberg of Columbia University.

At its meeting on June 15 the National Manpower Advisory Committee will review the goals and objectives of a national manpower program and the issues related to manpower revenue sharing. The meeting will be held in conference room 107 in the Department of Labor starting at 9:30 a.m., and is expected to adjourn around 3:30 p.m. The meeting will be open to the public.

Signed at Washington, D.C., June 4, 1973.

ROBERT R. BEHLOW,
Executive Secretary.

[FR Doc.73–11416 Filed 6–6–73;8:45 am]

OFFICE OF EMERGENCY PREPAREDNESS

ALABAMA

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in me by the President under Executive Order 11575 of December 31, 1970; and by virtue of the act of December 31, 1970, entitled "Disaster Relief Act of 1970" (84 Stat. 1744); 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 Alabama 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 Alabama. 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. William C. McMillen, Regional Director, OEP Region 4, 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 Alabama to have been adversely affected by this declared major disaster.

The counties of:

Bibb	Jefferson
Hale	Shelby

(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.73–11361 Filed 6–6–73;8:45 am]

THOMAS R. CASEY

Appointment as Federal Coordinating Officer

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11575, December 31, 1970 (36 FR 37, January 5, 1971), to administer the Disaster Relief Act of 1970 (Public Law 91-606, 84 Stat. 1744), I hereby appoint Thomas R. Casey as Federal coordinating officer to perform the duties specified by section 201 of that act for the disasters listed below, effective June 15, 1973:

State	Disaster No.	Declaration date
Puerto Rico: Vice Albert D. O'Connor, appointed Jan. 26, 1972 (37 FR 2613, Feb. 3, 1972).	296	Oct. 12, 1970
Virgin Islands: Vice Albert D. O'Connor, appointed Jan. 26, 1972 (37 FR 2613, Feb. 3, 1972).	298	Oct. 17, 1970

(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.73-11363 Filed 6-6-73;8:45 am]

JOHN F. SULLIVAN

Appointment as Federal Coordinating Officer

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11575, December 31, 1970 (36 FR 37, January 5, 1971), to administer the Disaster Relief Act of 1970 (Public Law 91-606, 84 Stat. 1744), I hereby appoint John F. Sullivan as Federal coordinating officer to perform the duties specified by section 201 of that act for the disasters listed below, effective May 11, 1973:

State	Disaster No.	Declaration date
Maine: Vice Joseph Dolben, appointed July 4, 1972 (37 FR 13586, July 11, 1972)	326	Mar. 7, 1972
New Hampshire: Vice Joseph Dolben, appointed July 4, 1972 (37 FR 13586, July 11, 1972)	327	Do.

(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.73-11362 Filed 6-6-73;8:45 am]

POSTAL RATE COMMISSION

CONTRACT PROPOSALS FOR PROFESSIONAL STUDIES

Notice for Requests

Notice is hereby given that, pursuant to subpart A, part 3001.42(b)(12) of the Commission's rules of practice and procedure (39 CFR 3001.42(b)(12)), Commission letters recently sent to a number of consulting firms, requesting contract proposals for mail classification studies, have been placed in the Commission's reading room at its offices located in suite 500, 2000 L Street NW., Washington, D.C. 20268.

The Commission contemplates negotiating a contract for mail classification studies which will develop, articulate, and collect all feasible mail classification concepts and, tentatively, to analyze alternative methods for implementing them. It is not the purpose of this Commission undertaking to develop a single, recommended mail classification system; that will be the task of various parties participating in formal administrative proceedings before the Commission, held pursuant to the provisions of chapter 36 of the Postal Reorganization Act. See 39 U.S.C. 3601 et seq. The objectives and scope of work are set forth preliminarily in the statement of work attached to the Commission's letters, each of which is identical except for the name and address of the addressee. The contents of the final statement of work and the related contract cost will, among other things, be subject to negotiation.

Any consulting firm wishing to receive a formal letter and preliminary statement of work from the Commission should submit a letter to that effect to Benson J. Simon, Postal Rate Commission, 2000 L Street NW., suite 500, Washington, D.C. 20268, not later than June 15, 1973. Requests may also be made by telephone by calling Mr. Simon at area code 202-254-3808, coupled with a subsequent confirmatory letter.

The Commission's correspondence on this matter is available for inspection and copying during the Commission's regular business hours, 8:45 a.m. to 5:15 p.m., Monday through Friday.

By direction of the Commission.

JOSEPH A. FISHER,
Secretary.

[FR Doc.73-11269 Filed 6-6-73;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

ACCURATE CALCULATOR CORP.

Order Suspending Trading

JUNE 1, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Accurate Calculator Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from June 4, 1973, through June 13, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-11340 Filed 6-6-73;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 and Increase in Authorized Shares of Common Stock and Issue and Sale Thereof to Holding Company

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.73-11341 Filed 6-6-73;8:45 am]

[File 500-1]

BBI, INC.

Order Suspending Trading

JUNE 1, 1973.

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

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

It is ordered, Pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above-mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from June 3, 1973, through June 12, 1973.

By the Commission.

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

[FR Doc.73-11342 Filed 6-6-73;8:45 am]

[File No. 500-1]

BENEFICIAL LABORATORIES, INC.

Order Suspending Trading

JUNE 1, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, warrants, units and all other securities of Beneficial Laboratories, 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 June 3, 1973, through June 12, 1973.

By the Commission.

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

[FR Doc.73-11343 Filed 6-6-73;8:45 am]

[File No. 500-1]

LOGOS DEVELOPMENT CORP.

Order Suspending Trading

JUNE 1, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Logos Development Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from June 4, 1973, through June 13, 1973.

By the Commission.

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

[FR Doc.73-11345 Filed 6-6-73;8:45 am]

[File No. 500-1]

OLD TOWN CORP.

Order Suspending Trading

MAY 31, 1973.

The common stock, $1 par value, of Old Town Corp., being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934, and all other securities of Old Town Corp., being traded otherwise than on a national securities exchange; and

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

It is ordered, Pursuant to section 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above-mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from June 1, 1973, through June 10, 1973.

By the Commission.

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

[FR Doc.73-11347 Filed 6-6-73;8:45 am]

[File No. 500-1]

ORECRAFT, INC.

Order Suspending Trading

JUNE 1, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.04 par value, and all other securities of Orecraft, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this

order to be effective for the period from June 4, 1973, through June 13, 1973.

By the Commission.

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

[FR Doc.73-11346 Filed 6-6-73;8:45 am]

[File No. 500-1]

PHOTON, INC.

Order Suspending Trading

JUNE 1, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $1 par value, and all other securities of Photon, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from June 4, 1973, through June 13, 1973.

By the Commission.

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

[FR Doc.73-11348 Filed 6-6-73;8:45 am]

[File No. 500-1]

PROOF LOCK INTERNATIONAL CORP.

Order Suspending Trading

JUNE 1, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Proof Lock International Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from June 3, 1973, through June 12, 1973.

By the Commission.

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

[FR Doc.73-11349 Filed 6-6-73;8:45 am]

[File No. 500-1]

TEXTURED PRODUCTS, INC.

Order Suspending Trading

JUNE 1, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.10 par value, and all other securities of Textured Products, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from June 4, 1973, through June 13, 1973.

By the Commission.

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

[FR Doc.73-11350 Filed 6-6-73;8:45 am]

[File No. 500-1]

TRIEX INTERNATIONAL CORP.

Order Suspending Trading

JUNE 1, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, of Triex International Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors.

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period June 3, 1973, through June 12, 1973.

By the Commission.

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

[FR Doc.73-11351 Filed 6-6-73;8:45 am]

[File No. 500-1]

U.S. FINANCIAL INC.

Order Suspending Trading

JUNE 1, 1973.

The common stock, $2.50 par value, of U.S. Financial Inc., being traded on the New York Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934, and all other securities of U.S. Financial Inc., being traded otherwise than on a national securities exchange; and

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

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above-mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from June 3, 1973, through June 12, 1973.

By the Commission.

RONALD F. HUNT, *Secretary.*

[FR Doc.73-11352 Filed 6-6-73;8:45 am]

TARIFF COMMISSION

[AA1921-121]

ALUMINUM INGOTS FROM CANADA

Rescheduling of Hearing Date

Notice is hereby given that the hearing in Investigation No. AA1921-121, scheduled to be held in the Tariff Commission's Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, D.C., beginning at 10 a.m., e.d.s.t., on June 26, 1973, has been rescheduled for 10 a.m., e.d.s.t., on July 17, 1973. Requests to appear at the public hearing should be received by the Secretary of the Tariff Commission, in writing, at its offices in Washington, D.C., not later than noon, Thursday, July 12, 1973.

The hearing is being held in connection with a Commission investigation under the provisions of section 201(a) of the Antidumping Act, 1921, as amended, to determine whether an industry in the United States is being or is likely to be injured, or is being prevented from being established, by reason of the importation of aluminum ingots from Canada which the Assistant Secretary of the Treasury has determined are being, or are likely to be, sold at less than fair value. Notice of the investigation was published in the FEDERAL REGISTER of May 29, 1973 (38 FR 14130, 14131).

Issued June 4, 1973.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.73-11378 Filed 6-6-73;8:45 am]

[AA1921-120]

CERAMIC GLAZED WALL TILE FROM THE PHILIPPINES

Rescheduling of Hearing Date

Notice is hereby given that the hearing in Investigation No. AA1921-120, scheduled to be held in the Tariff Commission's hearing room, Tariff Commission Building, Eighth and E Streets NW., Washington, D.C., beginning at 10 a.m. e.d.t., on June 19, 1973, has been rescheduled for 10 a.m., e.d.t., on July 10, 1973. Requests to appear at the public hearing should be received by the Secretary of the Tariff Commission, in writing, at its offices in Washington, D.C., not later than noon, Thursday, July 5, 1973.

The hearing is being held in connection with a Commission's investigation under the provisions of section 201(a) of the Antidumping Act, 1921, as amended, to determine whether an industry in the United States is being or is likely to be injured, or is being prevented from being established, by reason of the importation of ceramic glazed wall tile from the Philippines which the Assistant Secretary of the Treasury has determined is being, or is likely to be, sold at less than fair value. Notice of the investigation was published in the FEDERAL REGISTER of May 25, 1973 (38 FR 13788).

Issued June 4, 1973.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.73-11377 Filed 6-6-73;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

CONSTRUCTION SAFETY ADVISORY COMMITTEE

Notice of Meeting

Notice is hereby given that the Construction Safety Advisory Committee, established under section 107(e) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 656), will meet on Tuesday, June 19, 1973, starting at 9 a.m. in conference room B, departmental auditorium, Constitution Avenue between 12th and 14th Streets NW., Washington, D.C.

The agenda provides for the Committee to consider the feasibility of meeting the requirements of 29 CFR 1926.602(a) (5) and (8) by June 30, 1973. Section 1926.602(a) (5) and (8) require fenders to be installed on pneumatic-tired earthmoving haulage equipment manufactured before January 1, 1972, no later than June 30, 1973. The Committee will also review proposed amendments to the standards for tunnels and shafts (subpt. S, 29 CFR 1926.800) and proposed standards for personnel and material chimney hoists. Copies of the proposals will be available for inspection and copying in the executive secretary's office at the address given below.

The meeting shall be open to the public. Written data, views, and arguments concerning the subjects to be considered may be filed, together with 20 copies thereof, with the Committee's executive secretary by June 15, 1973. Any such submissions, timely received, will be provided to the members of the Committee and will be included in the record of the meeting.

Persons wishing to orally address the Committee at the meeting should submit a written request to be heard, together with 20 copies thereof, to the executive secretary no later than June 15, 1973. The request must contain a short summary of the intended presentation and an estimate of the amount of time that will be needed. At the meeting the chairman will announce whether oral presentations will be allowed, and, if so, under what conditions.

Communications to the executive secretary should be addressed as follows:

Executive Secretary, Standards Advisory Committee, OSHA-OSMC, Railway Labor Building, Room 509, U.S. Department of Labor, Washington, D.C. 20210.

Signed at Washington, D.C., this 5th day of June 1973.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.73-11407 Filed 6-6-73;9:31 am]

Wage and Hour Division

CERTIFICATES AUTHORIZING THE EMPLOYMENT OF FULL-TIME STUDENTS WORKING OUTSIDE OF SCHOOL HOURS AT SPECIAL MINIMUM WAGES IN RETAIL OR SERVICE ESTABLISHMENTS OR IN AGRICULTURE

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulation on employment of full-time students (29 CFR, pt. 519), and Administrative Order No. 621 (36 FR 12819), the establishments listed in this notice have been issued special certificates authorizing the employment of full-time students working outside of school hours at hourly rates lower than the minimum wage rates otherwise applicable under section 6 of the act. While effective and expiration dates are shown for those certificates issued for less than a year, only the expiration dates are shown for certificates issued for a year. The minimum certificate rates are not less than 85 percent of the applicable statutory minimum.

The following certificates were issued to variety-department stores and provide for an allowance not to exceed the proportion of the total hours worked by full-time students at rates below $1 an hour to the total number of hours worked by all employees in the establishment during the base period in occupations of the same general classes in which the establishment employed full-time students at wages below $1 an hour in the base year; or provide the same standards authorized in certificates previously issued to the establishment.

Ben Franklin Store, 3938 Lincoln Way West, South Bend, Ind. 4-6-74; No. 0375, Marysville, Mich., 3-31-74; Peachtree Plaza Shopping Center, Greer, S.C., 3-31-74; 123 Franklin Street, Port Washington, Wis., 4-5-74; 828 South Main Street, West Bend, Wis., 3-20-74.

Big K Department Store, 4-18-74: Fort Campbell Boulevard, Hopkinsville Ky.; Charlotte Square Shopping Center, Nashville, Tenn.

Central Market, Inc., 83 East Main Street, McConnelsville, Ohio, 3-22-73.

Duckwall Stores, Inc., 3-30-74: Nos. 62, 64, 66, 74, 98, and 100, Colorado Springs, Colo.; Nos. 75 and 84, Denver, Colo.; Nos. 65 and 76, Pueblo Colo.; No. 32, Colby, Kans.; No. 12, Garden City, Kans.; No. 7, Great Bend, Kans.; No. 59, Hutchinson, Kans.; No. 88, Junction City, Kans.; No. 86, Leavenworth, Kans.; No. 77, Salina, Kans.; No. 87, Topeka, Kans.; No. 52, Ulysses, Kans.; Nos. 33 and 93, Wichita, Kans.; No. 79, Winfield, Kans.

W. T. Grant Co.: No. 1156, Downers Grove, Ill., 3-31-74; No. 400, Rumford, Maine, 4-30-74; No. 175, Kalamazoo, Mich., 4-10-74; No. 1218, Medina, Ohio, 3-31-74.

Hellmans Inc., 2202 Central Avenue, Kearney, Nebr., 3-31-74.

Hested's Store, No. 6736, Falls City, Nebr., 3-21-74.

Kramer's Department Store, Rockfish Plaza, Wallace, N.C., 3-26-73 to 3-22-74.

S. S. Kresge Co.: No. 4292, Hialeah, Fla., 4-28-74; No. 4296, Hollywood, Fla., 3-24-74; No. 4356, Largo, Fla., 4-30-74; No. 4327, New Port Richey, Fla., 4-5-73 to 3-14-74; No. 4243, Oakland Park, Fla., 5-1-74; No. 4085, Pensacola, Fla. 5-2-74; No. 4122, Pensacola, Fla., 3-21-74; No. 4343, West Palm Beach, Fla., 3-22-74; No. 4198, Columbus, Ga., 4-2-74; No. 4459, Hinsdale (Willowbrook), Ill., 4-14-74; No. 4568, Niles, Ill., 3-20-74; No. 4154, North Aurora, Ill., 3-27-74; No. 4226, Evansville, Ind., 4-14-74; No. 4522, Newton, Iowa 4-9-73 to 3-29-74; No. 4352, Livonia, Mich., 4-15-74; No. 4126, Omaha, Nebr., 4-3-74; No. 4258, Akron, Ohio, 4-14-74; No. 4229, Austintown, Ohio, 3-31-74; No. 307, Ironton, Ohio, 4-9-74; No. 4257, Middleburg Heights Ohio, 4-19-74; No. 48, Stow, Ohio, 3-21-74; No. 4264, Stow, Ohio, 3-23-74; No. 4333, Anderson, S.C., 4-28-74; No. 4319, Columbia, S.C., 3-31-74; No. 4023, Amarillo, Tex., 4-19-74; No. 4080, Houston, Tex., 4-19-74.

Kuhn's Variety Store, 4-18-74: Main and Third Street Russellville, Ky.; 129 Main Street, Dickson, Tenn.; 109 South Elk Street, Fayetteville, Tenn.; Gallatin Plaza Shopping Center, Gallatin, Tenn.; 110 West Broadway, Lenoir City, Tenn.; 4816 Charlotte Road, Nashville, Tenn.; Harding Road, Nashville, Tenn.; 210-214 Cedar Avenue, South Pittsburgh, Tenn.

McCrory-McLellan-Green Store, 3-23-74, except as otherwise indicated: No. 286, Lake Wales, Fla. (4-30-74); No. 368, Ormond Beach, Fla.; No. 384 Sanford, Fla.; No. 360, East Alton, Ill. (3-26-74); No. 670, Westbrook, Maine (3-25-74); No. 242, Springfield, Mass. (4-8-74); No. 378, Camden, N.J. (3-21-74); No. 352, Toms River, N.J. (3-31-74); No. 268, Kinston, N.C.; No. 399, Lima, Ohio (4-9-74); No. 206, Westerly, R.I. (4-8-74).

Morgan & Lindsey No. 3094, Covington, La., 4-19-73 to 2-31-74.

G. C. Murphy Co., 4-25-74, except as otherwise indicated: No. 96, Jasper, Ala. (4-14-74); No. 289, Gainesville, Fla.: No. 276, Hialeah, Fla.; No. 279, Holly Hill, Fla.; No. 262, Jacksonville, Fla.: No. 264, Miami, Fla.; No. 284, Orlando, Fla.; No. 287, Panama City, Fla.; Nos. 253 and 292, Pensacola, Fla.; No. 272 St. Petersburg, Fla.; No. 290, West Hollywood, Fla.; No. 274, West Palm Beach, Fla.; No. 243, Moultrie, Ga.; Nos. 104 and 215, Indianapolis, Ind. (4-4-74); No. 411 Noblesville, Ind. (4-4-74); No. 204, Paintsville, Ky. (3-31-74); No. 176, Pikeville, Ky. (3-31-74); No. 136, Ocean City, N.J. (5-7-74); Nos. 71 and 298, Trenton, N.J. (5-7-74); No. 139, Washington, N.J. (5-7-74); No. 249, Hickory, N.C.; No. 295, Chattanooga, Tenn. (3-31-74); No. 299, Nashville, Tenn. (3-31-74).

Neiser Bros., Inc.: No. 44, Miramar, Fla., 4-23-74; No. 203, Tampa, Fla., 4-22-74; No. 35, Chicago, Ill., 4-17-74.

Prairie Village Ben Franklin, 6955 Tomahawk Road, Prairie Village, Kans., 4-21-74.

Price-Black Farms, Inc., Arrey, N. Mex., 3-30-74.

Raylass Department Store, 4-30-74, except as otherwise indicated: 835-841 Broad Street, Augusta, Ga.; 1123-1125 Broadway, Columbus, Ga. (5-3-74); 315 West Main Street, Durham, N.C.; 202 Hay Street, Fayetteville, N.C.; 102-104 West Main Street, Gastonia, N.C.

Richards Bros., Mountain Grove, Mo.; 3-29-74.

Robinsons Co., Osceola, Iowa; 3-26-74.

Royal's, Inc., 183 South Lake Avenue, Pahokee, Fla.; 3-27-74.

A. L. Singer & Sons, Inc., 105 South Center Street, Thomaston, Ga.; 3-26-74.

Spurgeon's: 124 South Banker Street, Effingham, Ill. 4-14-74; 117 East Second Street, Muscatine, Iowa, 3-29-74.

Sterling Stores Co., 417 Cherry Street, Helena, Ark.; 3-26-74.

T. G. & Y. Stores Co., 3-31-74, except as otherwise indicated: Nos. 183 and 193, Phoenix, Ariz.; No. 9206, Nashville, Ark. (4-5-74); No. 2102, Russellville, Ark. (4-12-74); No. 737, Eau Gallie, Fla.; No. 1305, Orlando, Fla. (5-7-74); No. 1317, South Daytona, Fla. (5-31-74); No. 9239, Dolton, Ill. (4-9-74);

No. 134, Arkansas City, Kans. (4–14–74); No. 313, Great Bend, Kans. (3–25–74); No. 133, Olathe, Kans. (4–1–74); No. 325, Overland Park, Kans. (4–1–74); No. 795, Gonzales, La. (4–12–74); No. 745, Sulphur, La. (3–24–74); No. 463, Belton, Mo. (4–16–74); No. 9313, Flat River, Mo. (4–7–74); No. 198, Albuquerque, N. Mex. (4–5–74); Nos. 283 and 285, Albuquerque, N. Mex. (4–29–74); No. 291, Albuquerque, N. Mex.; No. 86, Nicoma Park, Okla. (4–23–74); No. 431, Oklahoma City, Okla. (4–12–74); No. 442, Oklahoma City, Okla. (3–22–74); No. 1003, Oklahoma City, Okla. (3–24–74); No. 1018, Tahlequah, Okla. (4–14–74); No. 41, Tulsa, Okla. (4–16–74); No. 67, Tulsa, Okla. (4–28–74); No. 75, Tulsa, Okla.; No. 1006, Tulsa, Okla. (4–1–74).

Variety Investments, Inc., 1347 Portage Avenue, South Bend, Ind.; 4–18–74.

J. Watercott & Co., 500 Edward Street, Henry, Ill.; 3–27–74.

Wood's 5 & 10¢ Stores, Inc., Laurinburg, N.C.; 3–31–74.

Younker Bros., Inc., Fairway Shopping Center, Burlington, Iowa; 3–31–74.

Zimmerman's Department Store: 200 South Main Street, Lexington, N.C., 4–14–74; 110 North Main Street, Salisbury, N.C. 4–8–74.

Each certificate has been issued upon the representations of the employer which, among other things, were that employment of full-time students at special minimum rates is necessary to prevent curtailment of opportunities for employment, and the hiring of full-time students at special minimum rates will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under a certificate. The certificate may be annulled or withdrawn, as indicated therein, in the manner provided in part 528 of title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof on or before July 9, 1973.

Signed at Washington, D.C., this 30th day of May 1973.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[FR Doc.73–11415 Filed 6–6–73;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 268]

ASSIGNMENT OF HEARINGS

JUNE 4, 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 2202 sub 437, Roadway Express, Inc., now being assigned prehearing conference, July 25, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 128273 sub 135, Midwestern Express, Inc., now being assigned hearing July 24, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 123048 sub 222, Diamond Transportation System, Inc., Extension-Wallboard, and MC 124174 sub 92, Momsen Trucking Co., Extension-Wallboard, now being assigned hearing August 6, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

I. & S. M–26629, Classification Ratings on Collapsible Metal Tubes, nationwide, now assigned June 18, 1973, at Washington, D.C., is postponed to July 18, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC–119774 sub 54, Mary Ellen Stidham, N. M. Stidham, A. E. Mankins (Inez Mankins, Executrix), James E. Mankins, Sr., doing business as Eagle Trucking Co. now assigned June 11, 1973, at Kansas City, Mo., is canceled and the application is dismissed.

MC–138309, Liebmann Transportation Co., Inc., is dismissed.

MC–121303 sub 3, O. K. Warehouse Co., Inc., extension used household goods in containers, now assigned June 5, 1973, at Austin, Tex., is postponed indefinitely.

MC–50079 sub 457, Refiners Transport & Terminal Corp., now assigned June 12, 1973, at Chicago, Ill., is canceled and the application is dismissed.

MC–97357 sub 45, Allyn Transportation Co., Extension-Fuel Oil, MC 133315 sub 2, Asbury System Extension-Fuel Oil, is continued to June 26, 1973, at the the Arizona Corporation Commission, hearing room, Capitol Annex, Phoenix, Ariz.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73–11396 Filed 6–6–73;8:45 am]

[Notice 289]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR pt. 1132), appear below:

Each application (except as otherwise specifically noted), filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before June 27, 1973. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–74296. By order of May 25, 1973, the Motor Carrier Board approved the transfer to Wintz Warehousing Co., St. Paul, Minn., of permit No. MC–117681 issued August 12, 1968, and corrected certificate No. MC–129757 issued February 11, 1969, to Arrow Casey Hoban Trucking Co., Minneapolis, Minn., authorizing the transportation of ink, in bulk, from Minneapolis, Minn., to points in North Dakota, South Dakota, Nebraska, Iowa, Wisconsin, and Minnesota, and various specified commodities from and to points in Minnesota. George L. Wintz, Jr., president, Wintz Warehousing Co., 2550 Wabash Avenue, St. Paul, Minn. 55114, for applicants.

No. MC–FC–74310. By order of May 25, 1973, the Motor Carrier Board approved the transfer to William Arpin, Inc., 39 Appleton Street, Providence, R.I. 02909, of the operating rights in certificate No. MC–76575 issued May 6, 1960, to Maria Arpin, doing business as William Arpin, 39 Appleton Street, Providence, R.I. 02909, authorizing the transportation of household goods, between points in Rhode Island, on the one hand, and, on the other, points in New Hampshire, Vermont, Massachusetts, Connecticut, New York, New Jersey, and Pennsylvania.

No. MC–FC–74335. By order of May 25, 1973, the Motor Carrier Board approved the transfer to Wilton Storage Co., Inc., Pittsburgh, Pa., of the operating rights in certificate No. MC–75491 issued September 10, 1971, to Elizabeth Ann Gallagher, Pittsburgh, Pa., authorizing the transportation of general commodities, with exceptions, between Pittsburgh, Pa., on the one hand, and, on the other, points in Allegheny County, Pa. Arthur J. Diskin, 806 Frick Building, Pittsburgh, Pa. 15219, attorney for applicants.

No. MC–FC–74400. By order of May 25, 1973, the Motor Carrier Board approved the transfer to Annie Mae Basden and Leonard R. Basden, doing business as Basden Bus Lines, Tuscumbia, Ala., of a portion of the operating rights in No. MC–111317 issued May 9, 1972, to Fred Egly, doing business as Fred's Bus Line, Lawrenceburg, Tenn., authorizing the transportation of passengers and their baggage, over regular routes, between specified points in Alabama and Tennessee. James H. Tompkins, P.O. Box 512, Tuscumbia, Ala. 35674, attorney for applicants.

No. MC–FC–74412. By order of May 25, 1973, the Motor Carrier Board approved the transfer to J. E. Lammert Transfer, Inc., Grand Island, Nebr., of certificate No. MC–93454 issued to Campbell Trucking, Inc., Maquoketa, Iowa, authorizing the transportation of: Household goods as defined by the Commission, general commodities, with exceptions, farm machinery, and agricultural commodities, and numerous specifically described commodities, between specified points and areas in Illinois, Iowa, and Wisconsin. Kenneth F. Dudley, practitioner, P.O. Box 279, Ottumwa, Iowa 52501.

No. MC–FC–74468. By order of May 22, 1973, the Motor Carrier Board approved the transfer to Kansas City Tow Service, Inc., Kansas City, Mo., of certificate No. MC–116109 issued November 9, 1960, to John A. Solomon, doing business as Kansas City Tow Service, Kansas City, Mo., authorizing the transportation of wrecked or disabled motor vehicles and trucks from points in Kansas and Missouri to Kansas City, Mo., with replacement motor vehicles on return.

Donald J. Quinn, suite 900–1012 Baltimore, Kansas City, Mo. 64105, attorney for applicants.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.73–11395 Filed 6–6–73;8:45 am]

[Notice 72]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 31, 1973.

The following are notices of filing of application, 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, for temporary authority under section 210a(a) of the Interstate Commerce Act, provided for under the new rules of Ex parte No. MC–67 (49 CFR 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 263 (sub-No. 208 TA), filed May 17, 1973. Applicant: GARRETT FREIGHTLINES, INC., 2055 Garrett Way, P.O. Box 4048, Pocatello, Idaho 83201. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Denver, Colo. and Great Falls, Mont., serving the intermediate point of Billings, Mont.: From Denver, Colo., over U.S. Highway 87 (Interstate Highway 25), to junction Interstate Highway 90 near Buffalo, Wyo., thence over U.S. Highway 87 (Interstate Highway 90), to Billings, Mont., thence over Montana Highway 3 to junction U.S. Highway 12, thence over U.S. Highway 12 to junction U.S. Highway 191 at Harlowton, Mont., thence over U.S. Highway 191 to junction U.S. Highway 87 near Moore, Mont., thence over U.S. Highway 87 to Great Falls, Mont., and return over the same route, for 180 days.

NOTE.—Applicant intends to tack at Billings and Great Falls and interline at Billings, Great Falls, and Denver with MC–263 and outstanding sub numbers.

Applicant also intends to tack authority or interline with other carriers. Supporting shipper: There are approximately 67 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: C. W. Campbell, Interstate Commerce Commission, Bureau of Operations 550 West Fort, Box 07, room 455, Boise, Idaho 83724.

No. MC 95540 (sub-No. 870 TA), filed May 17, 1973. Applicant: WATKINS MOTOR LINES, INC., 1120 W. Griffin Road, Lakeland, Fla. 33801. Applicant's representative: Alan E. Serby, suite 1600, First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen citrus products*, from points in Florida, to points in Maine, Massachusetts, Connecticut, Rhode Island, Vermont, and New Hampshire and (2) *citrus products* not canned and not frozen, from points in Florida to points in Rhode Island, for 180 days. Supporting shippers: There are approximately 10 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: William L. Scroggs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, room 309, 1252 W. Peachtree St. NW., Atlanta, Ga. 30309.

No. MC 107515 (sub-No. 851 TA), filed May 17, 1973. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, 3901 Jonesboro Road, Forest Park, Ga. 30050. Applicant's representative: K. Edward Wolcott, suite 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat; meat products, and meat byproducts*, from Chino, Calif., to points in Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Florida, and the District of Columbia, for 180 days. Supporting shipper: Swift Fresh Meats Co., a division of Swift & Co., 115 West Jackson Boulevard, Chicago, Ill. 60604. Send protests to: William L. Scroggs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 107576 (sub-No. 22 TA), filed May 23, 1973. Applicant: SILVER WHEEL FREIGHTLINES, INC., 1321 Southeast Water Avenue, Portland, Oreg. 97214. Applicant's representative: Ben D. Browning (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except household goods as defined in 17 M.C.C. 467, commodities in bulk, in tank vehicles, and commodities which because of size or weight require special equipment): (1) Between Goldendale, Wash., and port of entry at intersection of U.S. Highway 97 and U.S.-Canadian border near Oroville, Wash.: From Goldendale over U.S. Highway 97 to the U.S.-Canadian border north of Oroville, and return over the same route serving all intermediate points and off-route points in Okanogan, Chelan, and Douglas Counties, Wash.; (2) between Pendleton, Oreg., and Wenatchee, Wash.; from Pendleton over Oregon State Highway No. 11 to the Oregon-Washington border south of Walla Walla, Wash., thence over Washington State Route 125 to Walla Walla, Wash., thence over U.S. Highway 12 to Pasco, Wash., thence over U.S. Highway 395 to junction Washington State Route 17 north of Pasco, thence over Washington State Route 17 to junction Interstate Route 90 near Moses Lake, thence over Interstate 90 to junction Washington State Route 281 near George, Wash., thence over Washington State Route 281 to junction Washington State Route 28 at Quincy, Wash., thence over Washington State Route 28 to Wenatchee, Wash., and return over the same route serving all intermediate points and off-route points within 10 miles of the described routes; (3) between the commercial zone of Seattle, Wash., and Pasco, Wash.; from Seattle over Interstate Route 90 to junction of Interstate Route 82 near Ellensburg, thence over Interstate Route 82 to junction of U.S. Highway 12 at Yakima, thence over U.S. Highway 12 to Pasco, and return over the same route serving all intermediate points and off-route points within 10 miles of the described routes, and the off-route points of Tacoma, Kent, Auburn, Renton, and their commercial zones as defined in MC-37; (4) between Spokane, Wash., and Ellensburg, Wash.; from Spokane over Interstate Route 90 to Ellensburg and return over the same route serving intermediate and off-route points in Kittitas and Grant Counties, Wash., and those points within 10 miles of Spokane, Wash.; (5) between Spokane, Wash., and Pasco, Wash.; from Spokane over U.S. Highway 395 to Pasco, and return over the same route serving intermediate and off-route points in Franklin County, Wash., and those points within 10 miles of Spokane, Wash.; (6) between Spokane, Wash. and Oroville, Wash; (a) from Spokane over U.S. Highway 2 to junction U.S. Highway 97 near Wenatchee, thence over U.S. Highway 97 to Oroville, and return over the same route serving intermediate and off-route points in Douglas, Chelan, and Okanogan Counties, Wash.; (b) also from Spokane, over U.S. Highway 2 to junction Washington State Route 174 near Wilbur, thence over Washington State Route 174 to junction Washington State Route 17 at Leahy, thence over Washington State Route 17 to junction U.S. Highway 97, thence over U.S. Highway 97 to Oroville and return over the same route serving intermediate and off-route points in Okanogan County, Wash., and (c) also over

Washington State Route 174 to Wilbur to junction Washington State Route 155 near Grand Coulee, thence over Washington State Route 155 to junction U.S. Highway 97, thence over U.S. Highway 97 to Oroville and return over the same route serving no intermediate points; and (7) between Spokane, Wash., and Pullman, Wash.; from Spokane over U.S. Highway 195 to Pullman and return over the same route serving intermediate points south of Rosalia, Wash., for 180 days.

NOTE.—Applicant states that all of the foregoing authority can be tacked with applicant's existing authority described in MC-107576 and outstanding subnumbers at any common point, including Goldendale and Kennewick, Wash., and Pendleton, Oreg., and that there be no restriction against interlining so that a through service may be performed to, from or between all points on its existing authority or operated under temporary control pursuant to the authorization of this Commission and all points requested in this application and beyond by interlining at any point on any such authorities.

Supporting shippers: There are approximately 193 statements of support attached to the application which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, 319 Southwest Pine Street, Portland, Oreg. 97204.

No. MC 128862 (sub-No. 17 TA), filed May 21, 1973. Applicant: B. J. CECIL TRUCKING, INC., P.O. Box C, Claypool, Ariz. 85532. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cushed copper ore*, from Wilcox, Ariz., to San Francisco, Calif., for 180 days. Supporting shipper: Marcona Corp., San Francisco, Calif. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, room 3427 Federal Building, 230 North First Avenue, Phoenix, Ariz. 85025.

No. MC 138668 (sub-No. 1 TA), filed May 17, 1973. Applicant: MERCHANTS DELIVERY AND WAREHOUSE CORP., 1307 Baur Road, St. Louis, Mo. 63031. Applicant's representative: Austin C. Knetzger, 1011-15 International Building, 722 Chestnut Street, St. Louis, Mo. 63101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Home care products* of Amway Corp. consisting principally of soap, detergents, and toiletries, from St. Louis to East St. Louis commercial zone, and Blue Springs, Mo., to all points in Missouri, for 180 days. Supporting shipper: Amway Texas Distribution Center, 2001 Timberlake Drive, Arlington, Tex. 76011. Send protests to: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, 210 North 12th Street, room 1465, St. Louis, Mo. 63101.

No. MC-138723 (sub-No. 1 TA), filed May 17, 1973. Applicant: C. & J. DELIVERY, INC., 9477 Aerospace Drive, St. Louis, Mo. 63134. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Lambert International Airport, St. Louis, Mo., on the one hand, and, on the other, Cape Girardeau, Mo., for 180 days. Restriction: Restricted to shipments having an immediately prior or subsequent movement by air. Supporting shippers: Shulman Air Freight, Inc., 9461 Aero Space Drive, St. Louis, Mo. 63134; Airborne Freight Corp., 9477 Aerospace Drive, St. Louis, Mo. 63134; and Air-Land Freight Consolidators, Inc., San Francisco International Airport, San Francisco, Calif. 94128. Send protests to: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, 210 North 12th Street, room 1465, St. Louis, Mo. 63101.

NOTE.—Applicant intends to tack at St. Louis, Mo. and/or Cape Girardeau, Mo.

No. MC 138732 TA, filed May 15, 1973. Applicant: OSTERKAMP TRUCKING, INC., 128 East Katella, Orange, Calif. 92667. Applicant's representative: Jerry Solomon Berger, Penthouse Suite, Glendale Federal Building, 9454 Wilshire Boulevard, Beverly Hills, Calif. 90212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, including *plywood or particleboard*, (1) from Hoquiam, Tacoma, Lacey, and Stevenson, Wash., to points in California, and (2) from points in Oregon, to points in California, for 180 days. Supporting shippers: American Forest Products Corp., 2740 Hyde Street, San Francisco, Calif. 94119; Kinkead Industries, Inc., 12601 Western Avenue, Garden Grove, Calif. 92641; H & M Wholesale Lumber Inc., 2015 North Batavia Street, Orange, Calif. 92665; and Plywood Marketing Associates, Box 1089, Vancouver, Wash. 98660. Send protests to: District Supervisor Philip Yallowitz, Interstate Commerce Commission, Bureau of Operations, 300 North Los Angeles Street, room 7708, Los Angeles, Calif. 90012.

No. MC 138733 TA, filed May 17, 1973. Applicant: CHARLES BRANHAM TRUCKING, INC., Route 2, Box 71-B, Washington, Ga. 30673. Applicant's representative: Frank D. Hall, suite 713, 3384 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Greensboro, Ga., to points in Wisconsin, Iowa, Illinois, Ohio, Michigan, Indiana, Pennsylvania, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, Kentucky, West Virginia, Virginia, Tennessee, North Carolina, South Carolina, Georgia, Alabama, Mississippi, and Florida, for 180 days. Supporting shipper: Greensboro Lumber Co., Greensboro, Ga. Send protests to: William L. Scroggs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 138733 (sub-No. 1 TA), filed May 17, 1973. Applicant: CHARLES BRANHAM TRUCKING, INC., Route 2, Box 71-B, Washington, Ga. 30673. Applicant's representative: Frank D. Hall, suite 713, 3384 Peachtree Road NW., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, from Tyner, Tenn., and Tunis, N.C., to points in Wilkes, Taliaferro, Oglethorpe, Lincoln, and Green Counties, Ga., for 180 days. Supporting shipper: Farmers Mutual Exchange, Washington, Ga. Send protests to: William L. Scroggs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 138734 TA, filed May 17, 1973. Applicant: LESTER GRAY, Westwood Trailer Court, Bemidji, Minn. 56601. Applicant's representative: F. H. Kroeger, 2288 University Avenue, St. Paul, Minn. 55114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fence pickets*, from Redby, Minn., to West Des Moines, Iowa; Bay City, and Gladstone, Mich.; Fowler, Ohio; Oklahoma City, Okla., commercial zone; and Dallas, and Fort Worth, Tex., commercial zones, for 180 days. Supporting shipper: Red Lake Chippewa Fence Co., Box 90, Redby, Minn. Send protests to: J. H. Ambs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 138735 TA, filed May 17, 1973. Applicant: WALTER BAMMON AND GENE ANDERSON, doing business as, B & A TRUCKING, Route 1, Box 905, Bristol, Tenn. 37620. Applicant's representative: Luther H. Icenhour, Bristol, Tenn. 37620. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fabric*, (1) from Brooklyn, N.Y., to Olive Hill, Ky.; Bristol and Athens, Tenn.; and Richmond, Va.; (2) from Olive Hill, Ky., to Mechanicsburg, Pa.; Brooklyn, N.Y.; and Memphis, Tenn.; (3) from Star, S.C., to Brooklyn, N.Y.; and (4) from Bristol, Tenn., to Brooklyn, N.Y., for 180 days. Supporting shipper: Gibralter Industries, Inc., 254 36th Street, Brooklyn, N.Y. 11232. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 803 1808 West End Building, Nashville, Tenn. 37203.

No. MC 138736 TA, filed May 17, 1973. Applicant: F B M TRUCKING, INC., 310 East Lanier Avenue, Fayetteville, Ga. 30214. Applicant's representative: Virgil H. Smith, suite 12, 1587 Phoenix Boulevard, Atlanta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lift trucks and lift truck attachments*, from New Orleans, La., and plantsite of C. Itoh & Co. (America), Inc., at Decatur, Ga., to points in Alabama, Florida, Mississippi, North Carolina,

South Carolina, and Tennessee, for 180 days. Supporting shipper: C. Itoh & Co. (America), Inc., 5304 East Panola Industrial Boulevard, Decatur, Ga. 30032. Send protests to: William L. Scroggs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., room 309, Atlanta, Ga. 30309.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON, *Acting Secretary.*

[FR Doc.73-11397 Filed 6-6-73;8:45 am]

[Notice 73]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 1, 1973.

The following are notices of filing of application, 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, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of *Ex parte No. MC-67* (49 CFR pt. 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 4197 (sub-No. 9 TA), filed May 18, 1973. Applicant: LOGAN TRANSFER CO., 720 12th Street, Huntington, W. Va. 25701. Applicant's representative: John M. Friedman, 2702 Putnam Avenue, P.O. Box 426, Hurricane, W. Va. 25526. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat and meat products*, including *fresh and prepared meats*, from Huntington, W. Va. to Grundy, Va. and points in Buchanan County, Va., for 90 days. Supporting shipper: Swift Processed Meats Co., a division of Swift & Co., 115 West Jackson Boulevard, Chicago, Ill. 60604, attention: Trevor H. Tucker, director of distribution. Send protests to: H. R. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charleston, W. Va. 25301.

No. MC 10345 (sub-No. 92 TA), filed May 16, 1973. Applicant: C & J COMMERCIAL DRIVEAWAY, INC., 1905 West Mount Hope Avenue, Lansing, Mich. 48910. Applicant's Representative: Walter N. Bieneman, suite 1700, 1 Woodward Avenue, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles, trucks*, and *buses*, as described in "Descriptions in Motor Carrier Certificates," 61 M.C.C. 209 and 766, in initial movements, in truckaway service, from Janesville, Wis., to points in the Lower Peninsula of Michigan, for 180 days. Supporting shipper: E. R. Wiseman, director, traffic planning and rates, G.M. Logistics operations, General Motors Corp., 30007 Van Dyke Avenue, Warren, Mich. 48090. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, room 225, Federal Building, Lansing, Mich. 48933.

No. MC 26739 (sub-No. 75 TA), filed May 16, 1973. Applicant: CROUCH BROS., INC., P.O. Box 1059, St. Joseph, Mo. 64502, and office: Elwood, Kans. 66024. Applicant's representative: R. A. Dombrowski (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), (1) between Kansas City, Kans./Mo. and Minneapolis-St. Paul, Minn.: from Kansas City, Kans./Mo. over Interstate Highway 35 to junction U.S. Highway 69 (just south of Pattonsburg, Mo.), thence over U.S. Highway 69 to junction Interstate Highway 35 (at Bethany, Mo.), thence over Interstate Highway 35 to junction U.S. Highway 20, thence over U.S. Highway 20 to junction U.S. Highway 69, thence over U.S. Highway 69 to junction Interstate Highway 35 to Minneapolis-St. Paul, Minn., and return over the same route; (2) between St. Joseph, Mo. and Minneapolis-St. Paul, Minn.: from St. Joseph, Mo. over U.S. Highway 36 to junction Interstate Highway 35, thence over Interstate Highway 35 to junction U.S. Highway 69 (just south of Pattonsburg, Mo.), thence over U.S. Highway 69 to junction Interstate Highway 35 (at Bethany, Mo.), thence over Interstate Highway 35 to junction U.S. Highway 20, thence over U.S. Highway 20 to junction U.S. Highway 69, thence over U.S. Highway 69 to junction Interstate Highway 35 to Minneapolis-St. Paul, Minn., and return over the same route; and (3) between St. Joseph, Mo. and Kansas regular route points named in MC 26739 sub No. 64, part C, with authority to tack to number (2) above at St. Joseph, Mo., for 180 days.

NOTE.—Applicant does intend to tack the authority here applied for to other authority held by it, and to interline with other carriers at Kansas City, Kansas/Missouri; St. Joseph, Mo.; Minneapolis-St. Paul, Minn.; Topeka, Salina, and Wichita, Kans.

Supporting shipper: No supporting shippers' statements are submitted. The application is supported by operating economies as set forth in applicant's supporting statement. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 234 Federal Building, Topeka, Kans. 66603.

No. MC 35807 (sub-No. 37 TA), filed May 17, 1973. Applicant: WELLS FARGO ARMORED SERVICE CORP., P.O. Box 4313, 210 Baker Street NW., Atlanta, Ga. 30313. Applicant's representative: Melvin E. Bailet (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Food coupons*, between all points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: General Services Administration, Federal Supply Service, Washington, D.C. 20406. Send protests to: William L. Scroggs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 106400 (sub-No. 96 TA), filed May 7, 1973. Applicant: KAW TRANSPORT CO., a corporation, P.O. Box 8525, Sugar Creek, Mo. 64054. Applicant's representative: Harold D. Holwick (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials, flakes, granules, lumps, pellets, or powder*, in bulk, in tank vehicles, from Randolph, Mo., to Sioux Falls, S. Dak., for 180 days. Supporting shipper: Gulf Oil Co.-U.S. Transportation Department, Houston, Tex. 77001. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 106603 (sub-No. 128 TA), filed May 17, 1973. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street SW., Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay and clay products* (except in bulk), from Paris, Tenn., to points in Illinois, Indiana, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, and Wisconsin, for 180 days. Supporting shipper: Gordon R. Lohraff, traffic manager, Lowe's, Inc., North Edward Street, Cassopolis, Mich. 49031. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, Mich. 48933.

No. MC 108223 (sub-No. 18 TA), filed May 18, 1973. Applicant: CENTURY MOTOR FREIGHT, INC., 3245 Fourth Street SE., Minneapolis (Hennepin County), Minn. Applicant's representative: James L. Nelson, 325 Cedar Street, St. Paul, Minn. 55101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting:

General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the Jonathan Industrial Center, Carver County, Minn., as an off-route point in connection with carrier's presently authorized regular route operations to and from Minneapolis-St. Paul, Minn., for 180 days.

NOTE.—Applicant intends to tack the authority sought with authority presently held in the name of Mercury Motor Freight Lines, Inc. in No. MC 103017 and related subs and to interline over Chicago, Ill.

Supporting shipper: Super Valu Stores, 101 Jefferson Avenue South, Hopkins, Minn. Send protests to: District Supervisor Raymond T. Jones, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building, 110 South Fourth Street, Minneapolis, Minn. 55401.

No. MC–110525 (sub-No. 1052 TA), filed May 15, 1973. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Vienna, Ga., to points in Alabama, Florida, and Mississippi, for 180 days. Supporting shipper: Georgia-Pacific Corp., P.O. Box 909, Augusta, Ga. 30903. Send protests to: Peter R. Guman, district supervisor, Bureau of Operations, Interstate Commerce Commission, 1518 Walnut Street, room 1600, Philadelphia, Pa. 19102.

No. MC–111401 (sub-No. 387 TA), filed May 17, 1973. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products* viz: mineral spirits, naphthol, hexene, heptane, toluene, xylene, benzene, lactol spirits, rubber solvents, in bulk, in tank vehicles, from AMSCO—Union Oil Co. of California Plant, Nederland, (Smith Bluff) Tex., to points in Alabama, Arkansas, Louisiana, Mississippi, Georgia, North Carolina, South Carolina, Florida and Tennessee, for 180 days. Supporting shipper: AMSCO, Union Oil Co. of California, Regional Office: 17 Executive Park Drive, NE., M. W. Mueller, region transportation manager, Atlanta, Ga. 30329. Send protests to: C. L. Phillips, district supervisor, Bureau of Operations, Interstate Commerce Commission, room 240, Old P.O. Building, 215 NW. Third, Oklahoma, City, Okla. 73102.

No. MC–113410 (sub-No. 76 TA), filed May 17, 1973. Applicant: DAHLEN TRANSPORT, INC., 1680 4th Avenue, Newport, Minn. 55055. Applicant's representative: Joseph A. Eschenbacher, Jr. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ashphalt and road oil*, in bulk, in tank vehicles, from Pine Bend, St. Paul Park and St. Paul, Minn., to points in Iowa, South Dakota, and Wisconsin, for 180 days. Supporting shippers: Northwestern Refining Co., subsidiary of Ashland Oil, Inc., Ashland, Ky.; Koch Refining Co., St. Paul, Minn.; and Pattison Petroleum Products Co., Durand, Wis. Send protests to: District Supervisor Raymond T. Jones, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building, 110 South 4th Street, Minneapolis, Minn. 55401.

No. MC–113908 (sub-No. 267 TA), filed May 17, 1973. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, P.O. Box 3180 Glenstone Station, Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Commodities processed, manufcatured and distributed by meat packing house companies*, such as: tallow, meat meal, bone meal, blood meal, fats, oils, lard, and other products in bulk, in tank and hopper type vehicles, from Arvada, Denver, and Brush, Colo., to points in and west of Michigan, Ohio, Kentucky, Tennessee, and Georgia; except (B) *lard*, from Arvada and Denver, Colo., to Albuquerque, N. Mex., and San Francisco, Calif., and (C) *inedible tallow*, from Denver, Colo., to points in Nevada, Utah, Wyoming, New Mexico, Idaho, Arizona, and California, for 180 days. Supporting shipper: Sigman Meat Co., Inc., P.O. Box 5292 T.A., Denver, Colo. 80217. Send rotests to: John V. Barry, district supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC–113981 (sub-No. 9 TA), filed May 16, 1973. Applicant: VEGAS TRUCKING & MOVING, INC., 2853 Cedar Street, Las Vegas, Nev. 89104. Applicant's representative: V. J. Hunt, (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except class A and B explosives, petroleum products in bulk, and commodities requiring special equipment), between points in Los Angeles and Orange Counties, Calif., and Pahrump and Amagrosa Valley (formerly known as Ash Meadows), Nev., bounded by the California-Nevada State line and Nevada Highways 52, 16, 95, and 58, excluding Beatty, Nev.: (A) from Los Angeles Calif., to San Bernardino, Calif. via Interstate 10, via Interstate 15 to Baker, Calif., California Highway 127 to Nevada State line, Nevada State Highway 29 to junction with Nevada State Highway 95 at Lathrop Wells, Nev., and return over the same route and (B) from junction California Highways 127 and 178 via 178 to California-Nevada State line, then via Nevada Highway 52 to Pahrump, Nev., and return via the same route, serving Riverside, Colton, and San Bernardino, Calif. as intermediate points, for 180 days.

NOTE.—Applicant intends to interline at Los Angeles, Calif., with authority held in MC–113981.

Supporting shippers: Farm Lands Co., P.O. Box 38, Lathrop, Wells, Nev. 89020; Stewart Ranch, Amagrosa, Nev. 89020; Cook Drilling Co., Lathrop Wells, Nev. 89020; R. C. Welco Ranch, Amagrosa, Nev. 89020; Western Auto store Pahrump, Nev. 89041; Pahrump Trading Post, Pahrump, Nev. 89041; and M. Kent Hafen, Pahrump, Nev. 89041. Send protests to: District Supervisor Robert G. Harrison, Bureau of Operations, Interstate Commerce Commission, room 203 Federal Building, 705 North Plaza Street, Carson City, Nev. 89701.

No. MC 116073 (sub-No. 262 TA), filed May 21, 1973. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., P.O. Box 919, 1825 Main Avenue, Moorhead, Minn. 56560. Applicant's representative: Robert G. Tessar (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, complete or in sections, transported on wheeled undercarriages, from the plantsite of Chardon Mobile Modular, Inc., in Phoenix, Ariz., to points in Colorado, New Mexico, and Utah, for 180 days. Supporting shipper: Chardon Mobile Modular, Inc., 204 South 32d Street, Phoenix, Ariz. 85036. Send protests to: J. H. Ambs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 119522 (sub-No. 23 TA), filed May 21, 1973. Applicant: McLAIN TRUCKING, INC., P.O. Box 2159, 2425 Walton Street, Anderson, Ind. 46011. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Farm gates*, from Frankfort, Ind., to points in Missouri, for 180 days. Supporting shipper: Rohn-Spaulding, Inc., Frankfort, Ind. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 345 West Wayne Street, room 204, Fort Wayne, Ind. 46802.

No. MC–127505 (sub-No. 57 TA), filed May 18, 1973. Applicant: RALPH H. BOELK, doing business as BOELK TRUCK LINES, Route 2, Mendota, Ill. 61342. Applicant's representative: Walter J. Kobos, 1016 Kehoe Drive, St. Charles, Ill. 60174. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper boxes, bottle carrying cartons and pulpboard*, from Morris, Ill., to Dexter, Pacific, and Poplar Bluff, Mo., Jeffersonville, Ind., Harrodsburg, Ky., and Marshall, Mich., for 180 days. Supporting shipper: Roger A. Twait, midwest regional traffic manager, Federal Paper Board Co., Inc., 960 East North Street, Morris, Ill. 60450. Send protests to: William J. Gray, Jr., district supervisor.

Bureau of Operations, Interstate Commerce Commission, 219 South Dearborn Street, room 1086, Chicago, Ill. 60604.

No. MC–128383 (sub-No. 27 TA) (CORRECTION), filed April 5, 1973, published in the FEDERAL REGISTER issue of April 19, 1973, and republished as corrected this issue. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: James W. Patterson, 123 S. Broad Street, Philadelphia, Pa. 19109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment) having a prior or subsequent movement by air, between John F. Kennedy International Airport, New York, N.Y., and Philadelphia International Airport, Philadelphia, Pa., on the one hand, and, on the other, Logan International Airport, Boston, Mass., for 180 days.

NOTE.—Applicant intends to tack with MC-128383 (lead) and subs 3 and 6.

Supporting shipper: Pan American World Airways, Pan Am Building, New York, N.Y. 10017. Send protests to: Peter R. Guman, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1518 Walnut Street, room 1600, Philadelphia, Pa. 19102.

NOTE.—The purpose of this republication was to add the tacking information which was omitted in previous publication.

No. MC 129410 (sub-No. 2 TA), filed May 17, 1973. Applicant: ROBERT BONCOSKY, INC., 4811 Tile Line Road, Crystal Lake, Ill. 60014. Applicant's representative: Irving Stillerman, 29 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products* (except in bulk) in shipper-owned trailers, from the plant and warehouse facilities of Dean Foods Co. at or near Chemung, Ill., to the plant and warehouse facilities of Dean Foods Co. at or near Racine, Wis., for 180 days. Supporting shipper: John B. Pettigrew, fleet superintendent, Dean Foods Co., 3600 River Road, Franklin Park, Ill. 60131. Send protests to: William J. Gray, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, 219 South Dearborn Street, room 1086, Chicago, Ill. 60604.

No. MC 129516 (sub-No. 15 TA), filed May 17, 1973. Applicant: PATTONS, INC., 2300 Canyon Road, Ellensburg, Wash. 98926. Applicant's representative: James T. Johnson, 1610 IBM Building, 1200 Fifth Avenue, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Horticultural mulch*, from Snoqualmie Falls, Wash., to points in Oregon, Idaho, and Washington, including ports of entry on the United States-Canada international boundary, for 180 days. Supporting shipper: Weyerhaeuser Co., Tacoma, Wash. 98401. Send protests to: District Supervisor W. J. Huetig, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, 319 Southwest Pine Street, Portland, Oreg. 97204.

No. MC 134307 (sub-No. 2 TA), filed May 17, 1973. Applicant: GREAT ATLANTIC CORP., 165 Spring Street, Lewiston, Maine 04240. Applicant's representative: Kenneth B. Williams, 111 State Street, Boston, Mass. 02109. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Albany, N.Y., to Lewiston, Maine, under continuing contract, or contracts, with Maine Banana Corp. of Lewiston, Maine, for 180 days. Supporting shipper: Maine Banana Corp., 165 Spring Street, Lewiston, Maine 04240. Send protests to: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, room 307, 76 Pearl Street, P.O. Box 167, PSS, Portland, Maine 04112.

No. MC 134365 (sub-No. 4 TA), filed May 18, 1973. Applicant: RUSSELL BARTLETT, doing business as RUSSELL BARTLETT TRUCKING, 1144 Pioneer Avenue, Turlock, Calif. 95380. Applicant's representative: William D. Taylor, 100 Pine Street, suite 2550 San Francisco, Calif. 94111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated metal buildings*, complete, knocked down, or in sections, *prefabricated metal building parts and fixtures and materials and supplies* used in the erection thereof, from Turlock, Calif., to points in California, Nevada, Arizona, Utah, New Mexico, Texas, Colorado, Wyoming, and Montana, under a contract with Lear Siegler, Inc., Cuckler Division of Turlock, Calif., for 180 days. Supporting shipper: Lear Siegler, Inc., Cuckler Division, P.O. Drawer 1028, Turlock, Calif. 95380. Send protests to: District Supervisor Claud W. Reeves, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 136376 (sub-No. 3 TA), filed May 22, 1973. Applicant: MONT R. LYNCH TRUCKING, 1505 Bitterroot Drive, Billings, Mont. 59101. Applicant's representative: J. F. Meglen, P.O. Box 1581, Billings, Mont. 59103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building products and specialties*, specifically colonial columns and porch columns manufactured from reinforced polyester resins (fiberglass), from Auburn and Sumner, Wash., and points within 10 miles thereof, to points in the United States (except Alaska and Hawaii) for 180 days. Supporting shipper: D.F.G. Tooling Corp., Route 1, Box 352 A, Sumner, Wash. 98390. Send protests to: Paul J. Labane, District Supervisor, Bureau of Operations, Interstate Commerce Commission, room 222 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 136818 (sub-No. 1 TA), filed May 15, 1973. Applicant: SWIFT TRANSPORTATION CO., INC., 335 West Elwood Road, Phoenix, Ariz. 85041. Applicant's representative: Donald E. Fernaays, suite 312, 4040 East McDowell Road, Phoenix, Ariz. 85008. 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 Commission's report in "Descriptions in Motor Carrier Certificates," *Ex parte MC–45* 61 M.C.C. 209 and 766, from the plantsites of Marathon Steel Co. at or near Tempe and Phoenix, Ariz., to points in California, Nevada, Utah, Colorado, and New Mexico, for 180 days. Supporting shipper: Marathon Steel Co., Phoenix, Ariz. Send protests to: Andrew V. Baylor, District Supervisor, Bureau of Operations, Interstate Commerce Commission, room 3427, Federal Building, 230 North First Avenue, Phoenix, Ariz. 85025.

No. MC 138190 (sub-No. 2 TA), filed May 24, 1973. Applicant: DARCI TRUCKING, INC., 3137 East North Avenue, Fresno, Calif. 93725. Applicant's representative: Ernest D. Salm, 8179 Havasu Circle, Buena Park, Calif. 90621. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aquariums and their accessories and supplies*, from Compton, Calif., to points in Oklahoma and Texas; also between Compton, Calif., and East Paterson, N.J., for 180 days. Supporting shippper: Metaframe Pacific Corp., 355 West Carob Street, Compton, Calif. 90220. Send protests to: District Supervisor Claud W. Reeves, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 138635 (sub-No. 2 TA), filed May 17, 1973. Applicant: CAROLINA WESTERN EXPRESS, INC., 650 Eastwood Drive, Gastonia, N.C. 28052. Applicant's representative: John R. Sims, Jr., suite 600, 1707 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric heat, circuit breakers, panels, switches, controllers, and parts thereof*, from points in Mecklenburg County, N.C., to points in California and Denver, Colo., for 180 days. Supporting shipper: Federal Pacific Electric Co., Charlotte, N.C. Send protests to: Terrell Price, Interstate Commerce Commission, Bureau of Operations, 800 Briar Creek Road, rm. CC516, Charlotte, N.C. 28205.

MOTOR CARRIERS OF PASSENGERS

No. MC 10302 (sub-No. 6 TA), filed May 21, 1973. Applicant: THE CHIEPPO BUS CO., 192 Forbes Avenue, New Haven, Conn. 06512. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, when moving in the same vehicle with passengers, in special round trip operations, beginning and ending at New Haven, Conn., and extending to Acqueduct Race Track, New York, N.Y.; Belmont Park, Elmont, N.Y.; Saratoga Race Track, Saratoga Springs, N.Y.; Suffolk Downs Race Track, Boston, Mass.; Lincoln Downs Race Track, Lincoln, R.I.; and Narragansett

Park Race Track, Pawtucket, R.I.; and Rockingham Park, Salem, N.H., for 180 days. Supporting shippers: There are approximately 26 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washingon, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor David J. Kiernan, Interstate Commerce Commission, Bureau of Operations, 324 U.S. Post Office Building, 135 High Street, Hartford, Conn. 06101.

No. MC 138730 TA filed May 16, 1973. Applicant: CARAVAN TOURS, INC., 707 Route 46, Parsippany, N.J. 07054. Applicant's representative: L. C. Major, Jr., 421 King Street, Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage and express*, in the same vehicle with passengers, in one-way and round trip charter operations, from points in Morris, Bergen, Passaic, Sussex, Essex, Union, Hudson, Middlesex, Monmouth, Warren, Hunterdon, and Somerset Counties, N.J., and extending to points in New Jersey, New York, and Pennsylvania, restricted to the transportation of not more than six passengers in any one vehicle, not including the driver, for 180 days. Supporting shippers: There are approximately 10 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Joel Morrows, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, N.J. 07102.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.73-11398 Filed 6-6-73;8:45 am]

[Notice 44]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

JUNE 1, 1973.

The following applications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by special rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

No. MC 5888 (sub-No. 32), filed April 4, 1973. Applicant: MID-AMERICAN LINES, INC., 127 West 10th Street, 11th floor, Kansas City, Mo. 64105. Applicant's representative: Louis A. Hoger (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building, roofing, and insulation materials* (except iron and steel and commodities in bulk) *and materials* used in the manufacture, installation, and distribution thereof, between the plantsites and warehouse facilities of Certain-teed Products Corp. in Scott County, Minn., on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Missouri, Nebraska, Ohio, and Wisconsin, restricted to traffic originating at or destined to the plantsites and warehouse facilities named above.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Minneapolis-St. Paul, Minn., or Washington, D.C.

No. MC 13900 (sub-No. 16), filed April 5, 1973. Applicant: MIDWEST HAULERS, INC., 228 Superior Street, Toledo, Ohio 43604. Applicant's representative: Harold G. Hernly, 118 North St. Asaph Street, Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* which are at the time moving on bills of lading of freight forwarders as defined in section 402(a)(5) of the act, (1) Serving Williamsport, Pa., as an intermediate point, in connection with regular-route operations between Rochester, N.Y., and Frederick, Md., over U.S. Highway 15; (2) Serving Scranton, Pa., and Binghamton, N.Y., as an intermediate point, in connection with carrier's regular-route operations between Hagerstown, Md., and Syracuse, N.Y., over U.S. Highway 11; (3) Serving Hartford, Conn., as an intermediate point, in connection with carrier's regular-route operations between Fremont, Ohio, and Hartford, Conn., over U.S. Highway 6; and (4) Serving New Haven, Conn., as an intermediate point, in connection with carrier's regular-route operations between Bridgeport, Conn., and Washington, D.C. over U.S. Highway 1.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 18416 (sub-No. 18), filed May 3, 1973. Applicant: CLAWGES TRANSFER CO., a corporation, Box 2158, Morgantown, W. Va. 26505. Applicant's representative: James W. Lawson, 1511 K Street, NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials*, used in drilling for natural gas and oil, from Morgantown, W. Va., to points in Kentucky, Maryland, Ohio, Pennsylvania, Virginia, and West Virginia.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack, and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 29120 (sub-No. 154), filed April 18, 1973. Applicant: ALL-AMERICAN, INC., 900 West Delaware, P.O. Box 769, Sioux Falls, S. Dak. 57101. Applicant's representative: Michael J. Ogborn

[1] Copies of special rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

(same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Refuse containers and compactors;* (2) *hoists;* (3) *truck bodies, boxes, and platforms;* and (4) *parts and accessories* for commodities in (1), (2), and (3), from Grundy Center, Sioux City, and Nevada, Iowa, to points in Colorado, Illinois, Indiana, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nebraska, New York, North Dakota, Ohio, Pennsylvania, Tennessee, South Dakota, Wisconsin, and Wyoming.

NOTE.—Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Applicant seeks no duplicating authority. If a hearing is deemed necessary, applicant requests it be held at Sioux Falls, S. Dak.

No. MC 30844 (sub-No. 463), filed April 30, 1973. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, P.O. Box 5000, Waterloo, Iowa 50702. Applicant's representative: Truman A. Stockton, the 1650 Grant Street Building, Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from Waterloo, and Columbus Junction, Iowa, to points in Missouri south of U.S. Highway 40 (except Joplin and Kansas City), and points in Oklahoma (except Henrietta, Muskogee, Oklahoma City, Okmulgee, and Tulsa).

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Washington, D.C.

No. MC 42487 (sub-No. 808) (correction), filed February 26, 1973, published in the FEDERAL REGISTER issue of May 17, 1973, and corrected this issue. Applicant: CONSOLIDATED FREIGHTWAYS CORP. OF DELAWARE, 173 Linfield Drive, Menlo Park, Calif. 94025. Applicant's representative: Robert M. Bowden, Western Traffic Service, P.O. Box 3062, Portland, Oreg. 97208.

NOTE.—The purpose of this partial republication is to include salt and fertilizer as an exception to the general commodities rather than as a separate commodity. The rest of the notice remains as previously published.

No. MC 43038 (sub-No. 454), filed May 7, 1973. Applicant: COMMERCIAL CARRIERS, INC., 10701 Middlebelt Road, Romulus, Mich. 48174. Applicant's representative: Paul H. Jones, 29725 Shacket Avenue, Madison Heights, Mich. 48071. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles*, in secondary movements, in truckaway service, between Nashville, Tenn., on the one hand, and, on the other, points in North Carolina, Virginia, and West Virginia, restricted to traffic manufactured, assembled, imported, or distributed by General Motors Corp.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Atlanta, Ga.

No. MC 43442 (sub-No. 23), filed April 25, 1973. Applicant: TRANSPORTATION SERVICE, INC., 2021 South Schaefer, Detroit, Mich. 48217. Applicant's representative: John Graham (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) serving the plantsite and facilities of Ford Motor Co., Romeo, Macomb County, Mich., as an off-route point in connection with applicant's presently authorized regular-route operations to and from Detroit and its commercial zone.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Washington, D.C.

No. MC 44639 (sub-No. 70), filed April 30, 1973. Applicant: L. & M. EXPRESS CO., INC., 220 Ridge Road, Lyndhurst, N.J. 07071. Applicant's representative: Herman B. J. Weckstein, 60 Park Place, Newark, N.J. 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials and supplies* used in the manufacture of wearing apparel (except commodities in bulk), between Weldon, N.C., on the one hand, and, on the other, points in the New York, N.Y., commercial zone.

NOTE.—Applicant states that the requested authority will be tacked with its existing authority at New York, N.Y., but does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 51146 (sub-No. 320), filed April 30, 1973. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54304. Applicant's representative: Charles Singer, 327 South La Salle Street, suite 1000, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products and products produced or distributed by manufacturers and converters of paper and paper products and materials and supplies used in the manufacture and distribution of paper and paper products* (except commodities in bulk), between the plant and warehouse sites of Monarch Marking Systems at Miamisburg, Ohio, on the one hand, and, on the other, points in the United States including Alaska and Hawaii.

NOTE.—Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority and will tack where feasible, but does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Applicant further states no duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 67200 (sub-No. 41), filed April 2, 1973. Applicant: HERMAN BROS. INC., 2501 North 11th Street, P.O. Box 189, Omaha, Nebr. 68101. Applicant's representative: Dale G. Herman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, in bulk, in tank or hopper type vehicles, from points in St. Louis County, Mo. (except points in the St. Louis, Mo., commercial zone and East St. Louis, Ill.) to Lincoln, Nebr.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Des Moines, Iowa.

No. MC 67200 (sub-No. 41), filed April 23, 1973. Applicant: THE FURNITURE TRANSPORT CO., INC., Furniture Row, Milford, Conn. 06400. Applicant's representative: Arthur J. Piken, 1 Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Organs*, from the warehouse and storage facilities of Warwick Electronics, Inc., at Harrisburg, Pa., to points in Connecticut, Massachusetts, Rhode Island, Maine, New Hampshire, Vermont, New York, New Jersey, and those in that part of Pennsylvania on and east of U.S. Highway 15, including Harrisburg, Pa.

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C. or Chicago, Ill.

No. MC 83539 (sub-No. 367), filed April 16, 1973. Applicant: C & H TRANSPORTATION CO., INC., 1936–2010 West Commerce Street, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Thomas E. James (same address as applicant). Authority ought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Material handling equipment, winches, compaction and road making equipment, rollers, mobile cranes and highway freight trailers*, and (2) *parts, attachments, and accessories* of the commodities in (1) above, between plansites of Hyster Co. at or near Crawfordsville, Ind., on the one hand, and, on the other, points in Arkansas, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Montana, Nebraska, New Mexico,

Oklahoma, Oregon, South Dakota, Texas, and Washington, restricted to the transportation of shipments originating at or destined to the above-named plantsites.

NOTE.—Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 87113 (sub-No. 13), filed April 27, 1973. Applicant: WHEATON VAN LINES, INC., P.O. Box 55191, Indianapolis, Ind. 46205. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Refrigerators* (other than residential type), uncrated, between Denver, Colo., on the one hand, and, on the other, points in the United States (including Alaska and Hawaii); (2) *refrigerators* (other than residential type), uncrated, between the plantsite of Percival Manufacturing Co. at Boone, Iowa, on the one hand, and, on the other, points in the United States (including Alaska and Hawaii); and (3) *controlled environment equipment, including growth chambers incubators*, uncrated, between the plantsite of Percival Manufacturing Co. at Boone, Iowa, on the one hand, and, on the other, points in the United States (including Alaska and Hawaii).

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Denver, Colo.

No. MC 94350 (sub-No. 335), filed April 27, 1973. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Haywood Road, Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles in initial shipments, and *buildings*, in sections, mounted on wheeled undercarriages (from points of manufacture), from points in Vance County, N.C., to points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extend along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the international boundary line between the United States and Canada (including Louisiana).

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 107012 (sub-No. 173) (correction), filed February 5, 1973, published in the FEDERAL REGISTER issue of March 22, 1973, and republished as corrected, in part, this issue. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Lincoln Highway East and Meyer Road, Fort Wayne, Ind. 46801. Applicant's representative: Donald C. Lewis (same address as applicant).

NOTE.—The purpose of this partial republication is to reflect service from Montgomery County, Ala., in lieu of Jefferson County, Ala., as an origin point which was incorrectly published in the previous FEDERAL REGISTER issue. The rest of the application remains the same.

No. MC 108449 (sub-No. 352), filed April 20, 1973. Applicant: INDIANHEAD TRUCK LINES, INC., 1947 West County Road C, St. Paul, Minn. 55113. Applicant's representative: Adolph J. Bieberstein, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Litharge*, dry, in bulk, in tank vehicles, from St. Paul, Minn., to points in Colorado, Illinois, Iowa, Kansas, Missouri, Nebraska, New Jersey, Ohio, and Virginia.

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn., or Des Moines, Iowa.

No. MC 111401 (sub-No. 385), filed April 23, 1973. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Alvin J. Meiklejohn, Jr., suite 1600 Lincoln Center, 1660 Lincoln Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid waste materials*, from points in Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas, to points in Kingfisher, Tulsa, and McClain Counties, Okla.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City or Tulsa, Okla.

No. MC 111687 (sub-No. 36), filed April 26, 1973. Applicant: BEN RUEGSEGGER TRUCKING SERVICE, INC., Route No. 1, Kawkawlin, Mich. 48631. Applicant's representative: Benjamin H. Ruegsegger (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, between Indiana, Illinois, Wisconsin, and Michigan and *malt beverage containers* on return.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority to connect through service between all points named above. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Lansing, or Detroit, Mich., or Chicago, Ill.

No. MC 116300 (sub-No. 13), filed April 13, 1973. Applicant: NANCE AND COLLUMS, INC., P.O. Drawer J, Fernwood, Miss. 39635. Applicant's representative: Harold D. Miller, Jr., 700 Petroleum Building, P.O. Box 22567, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt, salt products, and mineral feed mixtures*, having an immediately prior movement by water or rail, from Vicksburg, Miss., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss.

No. MC 117815 (sub-No. 208), filed April 27, 1973. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, Ninth Floor, Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Carrollton, Macon, Marshall, Milan, and Moberly, Mo., to points in Iowa, restricted to shipments originating at the named points.

NOTE.—Applicant states that the requested authority can be tacked at Clinton, Iowa, under its certificate in MC 128548 to serve points in Illinois, Indiana, and Michigan. Applicant further states that this service can also be performed by tacking its sub-154 at Chicago, Ill., to serve the same destinations. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Omaha, Nebr.

No. MC 118178 (sub-No. 15), filed April 26, 1973. Applicant: BILL MEEKER, 1733 North Washington, (P.O. Box 11184), Wichita, Kans. 67202. Applicant's representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 80806, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite of Dubuque Packing Co., at or near Mankato, Kans., to points in Iowa, Wisconsin, Illinois, Ohio, Indiana, Kentucky, Missouri, Tennessee, South Carolina, North Carolina, Georgia, Florida, Alabama, Louisiana, Mississippi, Nebraska, and Virginia.

NOTE.—Applicant also holds contract carrier authority under MC 110064, therefore dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Wichita, Kans.

No. MC 119934 (sub-No. 193), filed April 16, 1973. Applicant: ECOFF TRUCKING, INC., 625 East Broadway, Fortville, Ind. 46040. Applicant's representative: Robert W. Loser, II, 1009 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molasses*, in bulk, in tank vehicles, (1) from points in Louisiana (except Harvey, La.), to Baer Field, Ind.; and (2) from points in Louisiana, to Springfield, Mo.

NOTE.—Common control was approved in MC-F-8322. Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or New Orleans, La.

No. MC 123407 (sub-No. 120) (clarification), filed March 6, 1973, published in the FEDERAL REGISTER issue of April 19, 1973, and clarified this issue. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same address as applicant).

NOTE.—The purpose of this republication is to indicate that the requested operations should be restricted to shipments originating at or destined to the plantsite of the Abitibi Corp., at Chicago, Ill., in lieu of a restriction against shipments originating or destined to this location as previously published. The rest of the application remains as previously published.

No. MC 123639 (sub-No. 151), filed April 27, 1973. Applicant: J. B. MONTGOMERY, INC., 5150 Brighton Boulevard, Denver, Colo. 80216. Applicant's representative: John F. DeCock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the facilities of Missouri Beef Packers, Inc., at or near Boise, Idaho, to points in Arizona, California, Colorado, Illinois, Indiana, Iowa, Kansas, Maryland, Massachusetts, Michigan, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Utah, Vermont, Washington, and Wyoming, restricted to traffic originating at named origins.

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Amarillo, Tex.

No. MC 123685 (sub-No. 16) (correction), filed March 16, 1973, and published in the FEDERAL REGISTER issue of May 3, 1973, and republished, as corrected, in part, this issue. Applicant: PEOPLES CARTAGE, INC., 8045 Navarre Road SW., Massillon, Ohio 44656. Applicant's representative: James W. Muldoon, 50 West Broad Street, Columbus, Ohio 43215.

NOTE.—The purpose of this partial republication is to correct the commodity description to read as follows: *Salt and salt products; and products* used in agriculture, water treatment, food processing, wholesale grocery, and institutional supply industries, when shipped in mixed shipments with salt and salt products. The words "and products" were inadvertently omitted in previous publication. The rest of the application remains the same.

No. MC 125162 (sub-No. 5), filed April 23, 1973. Applicant: CROWN TRUCK LINE, INC., 3811 Broadway, Macon, Ga. 31206. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Brick, block, tile, and refractory materials, and materials and supplies* used in the manufacture of same (except in bulk), (a) between points in Georgia, on the one hand, and, on the other, points in Alabama, Georgia, Florida, North Carolina, South Carolina, and Tennessee; (b) from Macon, Ga., to Baltimore and Rock Ridge, Md.; and (c) from Birmingham, Ala., to points in Georgia and Florida; and (2) *silica sand and quartz gravel*, in containers, from points in Florida and North Carolina, to Macon, Ga. Restriction: Commodities moved in parts (a), (b), and (c) restricted to vehicles equipped with mechanical unloaders.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 125474 (sub-No. 38), filed April 24, 1973. Applicant: BULK HAULERS, INC., P.O. Box 3601, Wilmington, N.C. 28401. Applicant's representative: Elliott Bunce, 618 Perpetual Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry synthetic plastic granules or pellets*, in bulk, in tank vehicles, from points in Darlington County, S.C., to points in North Carolina.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Raleigh, N.C.

No. MC 125474 (sub-No. 39), filed April 24, 1973. Applicant: BULK HAULERS, INC., P.O. Box 3601, Wilmington, N.C. 28401. Applicant's representative: Elliott Bunce, 618 Perpetual Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ethylene glycol*, in bulk, in tank vehicles, from points in New Hanover County, N.C., to points in Darlington County, S.C.; and (2) *contaminated ethylene glycol*, in bulk, in tank vehicles, from points in Darlington County, S.C., to points in Rowan County, N.C.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Raleigh, N.C.

No. MC 128133 (sub-No. 11), filed April 19, 1973. Applicant: H. H. OMPS, INC., Route 5, Box 368, Winchester, Va. 22601. Applicant's representative: Frank B. Hand, Jr., P.O. Box 446, Winchester, Va. 22601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Poultry and animal byproducts meal, poultry and animal feed; and poultry and animal feed ingredients*, in bulk, from points in Frederick and Rockingham Counties, Va., York and Washington Counties, Pa., Baltimore and Howard Counties, Md., and points in the commercial zones of Pittsburgh, Pa., and Baltimore, Md., to points in Frederick County, Va., Washington, Cumberland, Somerset, York, and Dauphin Counties, Pa., Baltimore, Howard, and Anne Arundel Counties, Md., Moore County, N.C., and points in the commercial zones of Pittsburgh, Pa., and Baltimore, Md., as defined by the Commission; (2) *fertilizer*, in bulk or in bags, (a) from points in Carroll County, Md., to points in Frederick County, Va., and (b) from points in Frederick County, Va., to points in Bedford and Huntingdon Counties, Pa., and (3) *fertilizer*, between Milford, Va., and points in Maryland, Grant, Berkeley, Hampshire, Hardy, Jefferson, Mineral, and Morgan Counties, W. Va., and Adams, Franklin, Fulton, Somerset, and Bedford Counties, Pa.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 128273 (sub-No. 140), filed April 16, 1973. Applicant: MIDWESTERN EXPRESS, INC., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Harry Ross (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Rubber, rubber products, and such other commodities as are manufactured, processed and/or dealt in by rubber manufacturers*, from points in Rutherford County, Tenn., to points in the United States on and west of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the international boundary line between the United States and Canada and points in Wisconsin, Minnesota, and Louisiana; (2) *equipment, materials, and supplies* used in the manufacture and distribution of rubber products and such other commodities as are dealt in by manufacturers and (3) *tires* from points in the United States on and west of the Mississippi River as described in (1) above, and points in Wisconsin, Minnesota, and Louisiana to points in Rutherford County, Tenn.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant request it be held at Nashville, Tenn.

No. MC 133491 (sub-No. 2) (amendment), filed March 13, 1973, published in the FEDERAL REGISTER issue of May 3, 1973, and republished, as amended, this issue. Applicant PETRO TRANSPORT, INC., 7200 Inkster Road, Taylor, Mich. 48180. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from the ports of entry on the international boundary line between the United States and Canada at or near Port Huron, Mich., and at or near Detroit Mich., to points in the Lower Peninsula of Michigan on, east and south of a line beginning at the Michigan-Indiana State line and extending along U.S. Highway 131 to junction Interstate Highway 94, thence along Interstate Highway 94 to junction Michigan Highway 66, thence along Michigan Highway 66 to junction Michigan Highway 43, thence along Michigan Highway 43 to Lansing, thence along U.S. Highway 27 to Mount Pleasant, thence along Michigan Highway 20 to Midland thence along U.S. Highway 10 to Bay City, thence along Michigan Highway 13 to junction Michigan Highway 247, thence along Michigan Highway 247 to the western shore of Saginaw Bay, under a continuing contract with Petro Products, Inc., of Taylor, Mich

NOTE.—The purposes of this republication are to: (1) Change the route from regular to irregular; and (2) add Detroit, Mich., as a port of entry on the international boundary line between the United States and Canada. If a hearing is deemed necessary, applicant requests it be held at Lansing or Detroit, Mich.

No. MC 133618 (sub-No. 2), filed April 30, 1973. Applicant: CALVIN E. SUMMERS, 112 Spruce Street, Elizabethville, Pa. 17023. Applicant's representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, Pa. 17011. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except hides or commodities in bulk), from the plantsite and warehouse facilities utilized by Geo. A. Hormel & Co., at or near Beloit, Wis., to points in Pennsylvania, New Jersey, Delaware, and Maryland, restricted to traffic originating at the named origin and destined to the named States; and (2) *meat, meat products, meat byproducts, foodstuffs, canning plant materials, equipment, and supplies* (except hides or commodities in bulk), from points in Pennsylvania and New Jersey to the plantsite and warehouse facilities utilized by Geo. A. Hormel & Co., at or near Beloit, Wis., restricted to traffic originating at the named origins and destined to the named destination.

NOTE.—Applicant holds contract carrier authority under MC 129886 and subs 1, 2, 3, and 7, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 134599 (sub-No. 78), filed April 27, 1973. Applicant: INTERSTATE CONTRACT CARRIER CORP., P.O. Box 748, Salt Lake City, Utah 84110. Applicant's representative: Richard A. Peterson, P.O. Box 80806, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals, chemical compounds, chemical agricultural products, plastic materials, hose, hose couplings, cardboard boxes, pulpwood, paper and paper products, cloth, dry goods, fabrics, boots and shoes, carpet cushioning, rug underlay, rubber, rubber products, rubber compounds and equipment, materials and supplies* used in the manufacture and production of the above items (except commodities in bulk or commodities which because of size or weight require special handling or special equipment), between Chicopee Falls, Mass.; Providence and Coventry, R.I.; Sandy Hook and Naugatuck, Conn., and Beaver Falls, N.Y., on the one hand, and, on the other, points in Wisconsin, Illinois, Michigan, Indiana, Ohio, Kentucky, West Virginia, Virginia, Pennsylvania, New Jersey, Maryland, Delaware, Connecticut, Rhode Island, Massachusetts, New York, New Hampshire, Vermont, Maine, and the District of Columbia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr., or Salt Lake City, Utah.

No. MC 134734 (sub-No. 11), filed April 26, 1973. Applicant: NATIONAL TRANSPORTATION, INC., Box 31, Norfolk, Nebr. 68701. Applicant's representative: Lanny N. Fauss, Box 37096, Omaha, Nebr. 68701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Darr (Dawson County) Nebr., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the District of Columbia, under a continuing contract, or contracts, with National Foods, Inc., of Norfolk, Nebr.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha or Lincoln, Nebr.

No. MC 135032 (sub-No. 5), filed April 13, 1973. Applicant: HIAWATHA PRODUCE CO., a corporation, 3580 Fourth Street, Winona, Minn. 55987. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products* from points in Minnesota and Wisconsin to points in Illinois (except points in the Chicago, Ill., commercial zone), and those in Missouri on and east of U.S. Highway 65.

NOTE.—Applicant also holds contract carrier authority under MC 133709 (sub-No. 1), therefore, dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 135321 (sub-No. 4), filed April 16, 1973. Applicant: P & C TRUCKING, INC., P.O. Box 117, Pinckneyville, Ill. 62274. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Unfinished lumber, wooden pallets, and wooden railroad ties*, from points in Illinois on and south of Interstate Highway 70 to points in Daviess, Gibson, Lake, La Porte, Pike, Porter, Vigo, and Warrick Counties, Ind.; and (2) *wooden crane mats*, from points in Perry County, Ill., to points in Indiana and Kentucky.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at either (1) St. Louis, Mo.; (2) Springfield, Ill.; or (3) Chicago, Ill.

No. MC 136175 (sub-No. 1), filed January 24, 1973. Applicant: ALFRED BOUDREAU, 374 East Main Street, Coaticook, Standstead County, Province of Quebec, Canada. Applicant's representative: John P. Monte, 61 Summer Street, P.O. Box 568, Barre, Vt. 05641. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, logs, wood chips, and similar forest products*, from ports of entry on the international boundary lines between the United States and Canada located at points in Maine, New Hampshire, Vermont, and New York to points in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, Vermont, New York, New Jersey, and Pennsylvania.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Montpelier, Vt.

No. MC 136960 (sub-No. 2), filed April 23, 1973. Applicant: A. R. CHANCEY AND L. T. STEFFEY, a partnership, doing business as CHEROKEE TRANSPORT, 13037 East Valley Boulevard, La Puente, Calif. 91744. Applicant's representative: Herbert Cameron, 149 North Gramercy Place, Los Angeles, Calif. 90004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats*, fresh, frozen, cooked, cured, or preserved, and *packinghouse products*, between Vernon, Calif., on the one hand, and, on the other, points in Maricopa, Pima, and Yuma Counties, Ariz., under contract with Clougherty Packing Co., a corporation, doing business as "Farmer Johns."

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif., or Tucson, Ariz.

No. MC 138224 (sub-No. 1), filed April 27, 1973. Applicant: BIG MOUNTAIN

TRANSPORTATION, INC., 3945 Northeast Mallory Avenue, Portland, Oreg. 97212. Applicant's representative: Nick I. Goyak, 404 Oregon National Building, 610 Southwest Alder, Portland, Oreg. 97205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Telephone switchboard parts and telephone materials and supplies*, in T.O.F.C. semitrailers, and *empty T.O.F.C. semitrailers*, between Vancouver, Wash. and Portland, Oreg., under contract with Western Electric.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., or Seattle, Wash.

No. MC 138270 (sub-No. 2), filed April 12, 1973. Applicant: N. J. ARABIE, doing business as N. J. ARABIE TRUCKING SERVICE, Route 2, Box 255, Hountze, Tex. 77625. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gravel*, in bulk, from Longville, La., to Beaumont, Orange, Port Arthur, and Vidor, Tex.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Beaumont or Houston, Tex.

No, MC 135358 (sub-No. 1) (Amendment), filed March 9, 1973, published in the FEDERAL REGISTER issue of May 10, 1973, and republished as amended this issue. Applicant: DORY EXPRESS, LTD., a corporation, 241 Erie Street, Waverly, N.Y. 14892. Applicant's representative: Donald C. Carmien, P.O. Box 566, Binghamton, N.Y. 13902. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass containers and glass bottles*, from Wharton, N.J. to Elmira, N.Y.; and (2) *Cartons and partitions* from Elmira, N.Y., to Wharton, N.J., under a continuing contract with Thatcher Glass Manufacturing Co., Division of Dart Industries, Inc.

NOTE.—The purpose of this republication is to substitute "partitions" in lieu of "petitions" in the commodity descriptions in (2) above. If a hearing is deemed necessary, applicant requests it be held at Elmira or Binghamton, N.Y.

No. MC 138388 (sub-No. 2), filed April 30, 1973. Applicant: CHESTER CAINE, JR., doing business as CAINE TRANSFER, P.O. Box 411, Lowell, Wis. 53557. Applicant's representative: Edward Solie, Executive Building, suite 100, 4513 Vernon Boulevard, Madison, Wis. 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Animal and poultry feed and animal and poultry feed ingredients, and* (b) *animal and poultry supplements, and medications, and animal and poultry feeding devices* in mixed loads with the commodities named in (1) (a) above, from Thiensville, Wis., to points in Illinois, Indiana, Iowa, Maine, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New York, North Dakota, Ohio, Pennsylvania, South Dakota, Vermont, and Wisconsin; (2) *materials, equipment, and supplies* used in the manufacture, sale and distribution of the commodities described in (1) above, from points in the destination States named in (1) above to Thiensville, Wis.; and (3) *dry animal and poultry feed and feed concentrates*, from Fond du Lac, Wis., to points in the Upper Peninsula of Michigan, restricted in (1) and (2) above, to traffic originating at or destined to the plantsite and storage facilities of XK Sales & Development, Inc., at Thiensville, Wis., and in (3) above, to traffic originating at the plantsite and storage facilities of Ralston Purina Co., at Fond du Lac, Wis.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Madison, Wis.

No. MC 138415 (sub-No. 1) (correction), filed February 20, 1973, published in the FEDERAL REGISTER issue of April 12, 1973, and republished as corrected, in part, this issue. Applicant: TRAILER EXPRESS, INC., P.O. Box 321, Topeka, Ind. 46571. Applicant's representative: Michael V. Gooch, 777 Chamber of Commerce Building, Indianapolis, Ind. 46204.

NOTE.—The purpose of this partial republication is to include Alabama, as an origin point in (3) (a) of the territorial description, which was inadvertently omitted in the previous publication. The rest of the application remains the same.

No. MC 138590 (sub-No. 1), filed April 9, 1973. Applicant: BROOKS ENTERPRISES OF LOUISIANA, INC., P.O. Box 569, Many, La. 71449. Applicant's representative: Billy R. Reid, 6108 Sharon Road, Fort Worth, Tex. 76116. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, lumber byproducts, particle board, poles and pilings*, treated or untreated, from Columbia, Danville, Dodson, Fisher, Florien, Haynesville, Minden, Natchitoches, Oakdale, Ruston, Simsboro, Winnfield, and Zwolle, La., to points in Arkansas, Louisiana, Mississippi, and Texas, under contracts with Vancouver Plywood Co., Inc., Willamette Industries, Inc., and Louisiana Pacific Corp.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Shreveport or New Orleans, La.

No. MC 138600, filed April 2, 1973. Applicant: MID-OREGON X-PRESS, INC., 110 East Greenwood, Bend, Oreg. 97701. Applicant's representative: Russell M. Allen, 1200 Jackson Tower, Portland, Oreg. 97205. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: (A) *General commodities* (except those of unusual value, commodities in bulk, commodities requiring special equipment and uncrated household goods), Regular route: (1) Between Portland, Oreg., and Bend, Oreg., serving the intermediate points of Warm Springs, Madras, Terrebonne, Prineville Junction, and Redmond, Oreg., and the off-route points of Culver, Metolius, and Prineville, Oreg., in connection with applicant's regular-route authority; from Portland, Oreg., over U.S. Highway 26 to junction U.S. Highway 97, thence over U.S. Highway 97 to Bend, Oreg., and return over the same route; and (2) from Portland, Oreg., to Bend, Oreg., over Interstate Highway 5 to Salem, Oreg., and junction Oregon Highway 22, thence over Oregon Highway 22 to junction U.S. Highway 20, thence over U.S. Highway 20 to Bend, Oreg., and return over the same route serving as an alternate for operating convenience only, in connection with applicant's regular-route authority; (B) *general commodititis* (except those of unusual value, commodities in bulk, commodities requiring special equipment, commodities requiring refrigeration, and uncrated household goods), between points in Deschutes, Crook and Jefferson Counties, Oreg.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Portland or Bend, Oreg.

No. MC 138672, filed April 23, 1973. Applicant: JACQUES POULIOT, doing business as POULIOT TRANSPORT, St. Camille, Bellechasse County, Quebec, Canada. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from ports of entry on the United States-Canada boundary line located at Jackman, Maine; Derby Line, Beecher Falls, Highgate Springs, and Norton Mills, Vt., and Rouses Point, N.Y., to points in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Delaware. Restriction: Restricted to the transportation of shipments originating at points in Montmagny and L'Islet Counties, Quebec, Canada.

NOTE.—The purpose of this application is to convert applicant's present contract carrier permit into a common carrier certificate. If a hearing is deemed necessary, applicant requests it be held at Augusta, Maine, or Boston, Mass.

No. MC 138675, filed April 19, 1973. Applicant: AMERICAN TRANSPORT, INC., 190 North Carbon Avenue, Price, Utah 84501. Applicant's representative: Harry D. Pugsley, 400 El Paso Gas Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mining machinery and equipment*, from Cannonsburg, Pa., Beckley, W. Va., and Cedar Bluff, Va., to American Coal Co.'s mine located in Emery County, Utah, under contract with American Coal Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah.

APPLICATION FOR FILING OF FREIGHT FORWARDER

No. FF-220 (sub-No. 1), filed May 17, 1973. Applicant: RIVER FORWARDERS, INC., 51 North Desplaines Street, Joliet, Ill. 60431. Applicant's representative: S. S. Eisen, 370 Lexington Avenue, New York, N.Y. 10017. Authority sought to engage in operation, in interstate commerce, as a *freight forwarder of commodities generally*, through use of the facilities of common carriers by water, in whole or in part, between points in Oklahoma, on the one hand, and, on the other, points in Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Tennessee, Texas, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Tulsa, Okla.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 114004 (sub-No. 127), filed April 9, 1973. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, Ark. 72209. Applicant's representative: Harold G. Hernly, Jr., 118 North St. Asaph Street, Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, in sections, mounted on wheeled undercarriages, from points in Tennessee, to points in the United States (including Alaska, but excluding Hawaii).

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.73-11299 Filed 6-6-73;8:45 am]

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federal register

THURSDAY, JUNE 7, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 109

PART II

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

■

MILK IN THE LAKE MEAD MARKETING AREA

Decision on proposed Marketing Agreement and Order

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR, Part 1139]

[Docket No. AO 374]

MILK IN LAKE MEAD MARKETING AREA

Decision on a Proposed Marketing Agreement and Order

A public hearing was held upon a proposed marketing agreement and order regulating the handling of milk in the Lake Mead 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 St. George, Utah, pursuant to notice thereof issued on September 27, 1972 (37 FR 20563).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on April 24, 1973 (38 FR 11024), 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 "marketing area," the introductory paragraph and paragraph 5 are revised and a new paragraph is added after paragraph 11.

2. Under "producer-handler," the introductory paragraph is revised.

3. Under "producer," paragraph 3 is deleted, and two new paragraphs are added after paragraph 5.

4. Under "butterfat differential," a new paragraph is added after paragraph 7.

The material issues on the record relate to:

1. Whether the handling of milk produced for sale in the proposed marketing area is in the current of interstate commerce, or directly burdens, obstructs, or affects interstate commerce in milk or its products;

2. Whether marketing conditions show the need for the issuance of a milk marketing agreement or order which will tend to effectuate the policy of the act; and

3. What the order provisions should be with respect to:

(a) The scope of regulation;

(b) The classification and allocation of milk;

(c) The determination and level of class prices;

(d) Distribution of proceeds to producers; and

(e) Administrative provisions.

Findings and Conclusions

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

1. *Character of commerce.*—The handling of milk in the marketing area adopted herein is in the current of interstate commerce and directly burdens, obstructs, and affects interstate commerce in milk and milk products.

The marketing area defined in the proposed order, hereinafter referred to as the "Lake Mead marketing area," includes part of Clark County in southern Nevada and two communities in southern Utah (St. George and Cedar City). Most of the population of the area is centered in the Las Vegas metropolitan area.

Milk marketing in southern Nevada is regulated by the Nevada Dairy Commission. The handlers located there, principally at Las Vegas, are supplied by about 15 dairy farmers whose farms are in southern Nevada. About 40 percent of the milk processed by the southern Nevada handlers is not classified and priced by the Commission.

Milk production in southern Nevada is not sufficient to meet the handlers' needs for bottling use and for cottage cheese and ice cream sales. An increasing quantity of milk and dairy products originates outside Nevada.

The milk supply originating in Nevada was supplemented with 41 million pounds of milk from outside the State in 1969, 43 million pounds in 1970, and 48 million pounds in 1971. A substantial portion of the total milk processed by southern Nevada handlers originates from 28 producers whose farms are in southern Utah. Milk from some of these producers is received at a processing plant at Cedar City, Utah, which plant also distributes fluid milk products in the southern Nevada area. The remainder is received at Nevada plants where it is commingled with milk from Nevada farms in processing operations.

Safeway Stores, Inc., markets fluid milk and milk products in southern Nevada from its plant at Los Angeles, Calif., utilizing raw milk produced in Nevada and California. Also, the firm markets milk products in southern Utah utilizing raw milk associated with the Great Basin Federal order, which milk originates in Utah, Wyoming, northeastern Nevada, and Idaho. Lucky Stores, Inc., serves southern Nevada with fluid milk and milk products from its plant in California utilizing raw milk produced in California.

In addition to the regular and substantial flow of fluid milk and milk products in interstate commerce in both packaged and bulk form, there is a regular movement of manufactured dairy products into the marketing area. No butter, hard cheese, or nonfat dry milk is manufactured by southern Nevada plants or by the plant at Cedar City, Utah. These products are supplied from other sources, normally from outside Nevada. Also, milk that is excess to the market's needs is, at times, disposed of to plants located outside the State of Nevada where it is processed into milk products.

2. *Need for an order.*—There is general agreement among producer groups in the market that marketing conditions in the area are such that an overall system of classification, pricing, and accounting for milk should be adopted to restore stability, and that for such a system to be effective it must be established under Federal authority.

No testimony was presented at the hearing in opposition to such regulation.

There are three cooperative associations seeking Federal milk regulation in the Lake Mead area. Clark County Dairymen, Inc., is a farmer cooperative. The association does not operate processing facilities, and its members produce milk and market it primarily through Arden Farms, Las Vegas, a proprietary distributor.

General Dairies, Inc., is a farmer cooperative. It has processing facilities in both the States of Utah and Nevada. The plant of General Dairies, Inc., at Cedar City processes considerable quantities of milk that are distributed in the Cedar City, St. George (Utah), and Las Vegas areas. Milk processed at the Cedar City plant is received from farms located in both Utah and Nevada.

Vegas Valley Farms is a corporation organized under the laws of the State of Nevada and owned by General Dairies, Inc. It has a fluid milk processing facility at Logandale, Nev., and a distribution facility in Las Vegas. Milk processed at the Logandale plant is received from producers located in Utah and Nevada.

Alamo Dairymen Association is a farmer cooperative. It has no fluid milk processing facility and its producers market their milk to General Dairies, Inc., for such processing at its Cedar City plant.

The proponents represent 38 of the 43 producers who produce milk in southern Utah and southern Nevada. The five producers who were not represented by proponents are two producers for the St. George Ice Co., at St. George, and three producers who market their milk with Anderson Dairy, Las Vegas.

The problem on which the need for an order is based is that the State of Nevada cannot enforce its classified pricing program on milk produced outside Nevada. Since a substantial amount of milk for the market originates in Utah, the prices established by the Nevada Dairy Commission are not applicable to it. Thus, the milk produced in southern Utah and processed in southern Nevada plants is not subject to regulation by the Commission. Yet, milk produced in southern Nevada and that produced in southern Utah compete for the same market.

The largest handler serving the Las Vegas area receives milk from his own farm and from 18 other producers. Of these, 15 reside in southern Utah. Since the handling of milk produced in southern Utah is not subject to regulation by the Nevada Dairy Commission, the handler can, and does, obtain milk from Utah producers acquired at prices substantially lower than those established by the Commission. By so doing he enjoys a raw milk cost advantage over competition that buys milk fully subject to the regulations of the Nevada Dairy Commission.

The handler buys milk from Utah producers on the basis of 80 percent Class I and 20 percent Class II utilization. A producer spokesman from Washington County, Utah, testified that this ratio has been used to pay him and other Utah

producers for the past several years, irrespective of the actual utilization of milk.

Data published by the Nevada State Dairy Commission indicated that Nevada milk production for the Southern Nevada marketing area totaled 52.5 million pounds for the year of 1971. Of this total 46.8 million pounds (89 percent) was used in Class I. During 1970, 89 percent of the 54.9 million pounds of Nevada milk production for the market was used in Class I.

The Utah producer witness testified that he received a blend price (before deductions) of $5.65 per cwt for milk testing 3.5 percent butterfat for his July 1972 milk deliveries. If such milk had been subject to the Nevada State Dairy Commission prices, his "blend" price would have been 42 cents higher at $6.07 for such month.

From the foregoing price and utilization data, it is concluded that there is no overall plan whereby all dairy farmers who supply milk for distribution in the Lake Mead area are assured of payment for their milk in accordance with its use and at prices that are uniformly applicable throughout the market.

The problems of unstable marketing conditions encountered by producers in the Lake Mead marketing area are not unlike those in other fluid milk markets where there had been, prior to Federal regulation, no program for regulating all producer milk supplies on uniform terms. The present unstable marketing conditions in southern Nevada and southern Utah could threaten the maintenance of an adequate supply of milk for the Lake Mead marketing area. A Federal milk order establishing class prices at reasonable levels and a marketwide pool for distributing returns uniformly among all producers will provide the needed market stability. Price stability and orderly marketing throughout the entire Lake Mead marketing area depend on the adoption of a classified pricing plan based on audited utilization of all Grade A milk purchased by handlers from producers and an equitable division among all producers of the proceeds from the sale of their milk.

Both the southern Utah producers and the southern Nevada producers will be assured of reasonable minimum prices applicable to the respective class-uses provided herein. A Federal milk order will assure them that all their milk will be priced according to its use and that each producer will share pro rata in the returns from the sale of their milk in the respective classes.

Handlers will be assured that their competitors will pay for milk at not less than the minimum prices set by the order and that such prices will apply whether the milk originates in southern Utah or southern Nevada.

Also, a Federal milk order should help prevent wide fluctuations in prices through seasonal periods of heavy and light milk production and thus, by providing increased assurance to producers concerning their market, help to assure consumers in the Lake Mead marketing area of an adequate supply of milk throughout the year.

Moreover, there is now a lack of detailed marketing information relative to the procurement and disposition of milk throughout the Lake Mead area. Such information is essential to orderly marketing on a continuing basis. A Federal milk order for the Lake Mead area will provide further benefit of complete information on receipts and utilization of milk.

In addition, the procedures required by the act will afford all interested persons opportunity to take part in determining, through public hearing, what the various provisions of the order should be to insure the orderly marketing of milk on a continuing basis.

3. *The Lake Mead order provisions.*—(a) *The scope of regulation.*— It is necessary to designate clearly what milk and which persons would be subject to the various provisions of the order. This is accomplished by providing specific definitions to describe: (1) The marketing area; (2) route disposition; (3) the types of plants; (4) the various categories of regulated persons (handlers); and (5) the persons (producers) whose milk will be subject to the uniform prices.

Marketing area.—The Lake Mead marketing area should include the urbanized territory within Clark County, Nev., and the territory within the municipal limits of Cedar City and St. George, Utah. Also, the marketing area should include all governmental installations located in or extending into Clark County, Nev., such as the Nellis Air Force Base and the Indian Springs Auxiliary Air Force Base.

The urbanized territory of Clark County includes the following incorporated and unincorporated places: Henderson City in Henderson Township; East Las Vegas, Las Vegas City, Paradise, Sunrise Manor (part), Vegas Creek, and Winchester in Las Vegas Township; Boulder City, in Nelson Township; and Nellis, North Las Vegas City, and Sunrise Manor (part) in North Las Vegas Township.

The urbanized area in Clark County and the cities of Cedar City and St. George, Utah, have experienced considerable population growth over the past 10 years. The Las Vegas urbanized area population increased 156 percent from 1960 to 1970. Over the same 10-year period, the population of St. George, Utah, increased 38 percent, while the population of Cedar City increased 19 percent.

The 1970 census population of the proposed Lake Mead marketing area was 270,928. Of this total 254,885 or 94.1 percent resided in the Las Vegas urban area.

Proponents proposed that all of Clark County, Nev., be included in the marketing area. However, the county comprises 7,874 mi^2 while the urbanized population is situated in a relatively compact area surrounding Las Vegas. The 1970 population of Clark County was 273,288 and the population of the Nevada portion of the marketing area proposed herein was 93.3 percent of the total population of Clark County. Handler competition for fluid sales is concentrated in the heavily populated area, but also includes fluid outlets represented by the Nellis Air Force Base and other governmental installations or reservations located geographically within Clark County. With a very large proportion of the total population residing in a relatively compact area, it is concluded that all of Clark County need not be included in the marketing area, as producers proposed.

The 1970 census data for Iron County, Utah, indicate a population of 12,177. About 74 percent resided in Cedar City. The remainder of the population for the county is rural. A similar situation exists concerning Washington County, Utah. The 1970 census data indicates a population of 13,669 for Washington County. About 52 percent resided in the city of St. George. The remainder of the Washington County population is rural. With a significant proportion of the population in Iron and Washington counties residing within the municipal limits of Cedar City and St. George, competition among handlers for fluid sales is concentrated in such areas. Accordingly, the marketing area should be limited to the municipal limits of the two cities rather than expanded to include the entire two-county area.

The major handlers who distribute milk in the defined marketing area are Anderson Dairy, Las Vegas; Arden Farms, Las Vegas; Vegas Valley Farms, Logandale, Nev.; Safeway Stores, Oakland, Calif.; Lucky Stores, Bueno Park, Calif.; St. George Ice Co., St. George, and General Dairies, Cedar City.

A significant amount of milk processed at the Cedar City plant is distributed in Las Vegas, while the major portion of the fluid disposition from the St. George plant is made in the vicinity of that city.

The Cedar City plant would be fully regulated by the Lake Mead order regardless of whether the cities of St. George and Cedar City are included in the marketing area because of its route disposition in Clark County. However, if both cities were not included, the plant located at St. George would not be regulated. As a result, about 50 percent of the sales from the Cedar City plant would be disposed of as route disposition in competition with an unregulated plant located close by at St. George.

Grade A milk products sold for fluid consumption throughout the defined marketing area must be approved by duly constituted regulatory agencies who are governed by health ordinances, practices, and procedures patterned after the U.S. Public Health Service Grade A Pasteurized milk ordinance. Also, the States of Nevada and Utah have reciprocal agreements with respect to the interstate movement of milk from handler facilities approved and operated under the U.S. Public Health Service Interstate Milk Shippers Code. Because of such reciprocal approval of responsible regulatory agencies, there generally is free and unrestricted movement of Grade A milk both in bulk and packaged form among various locations in the market.

The order also should provide that governmental establishments located wholly

or partly within the boundaries of the designated marketing area can be considered as part of the marketing area. If such governmental establishments are located partly within and partly outside the designated boundary, the entire establishment shall be a part of the marketing area. The point of delivery within any such installation should not be the factor in determining whether a handler is subject to the order. Therefore, all territory occupied by a governmental establishment shall be a part of the marketing area if any part of such territory lies geographically within the designated boundaries of the marketing area.

The area defined in the recommended decision requires clarification concerning governmental installations located in Clark County, Nev. In exceptions filed by three cooperative associations, it was requested that the marketing area definition be clarified to include all governmental installations and reservations located in, or extending into, Clark County, Nev. This would be in addition to the Nellis Air Force Base (in Clark County), which was specifically included in the marketing area by the recommended decision. While all such installations and reservations have not been named specifically by exceptors, it is clear from testimony presented at the hearing that handlers who would be regulated by the order customarily compete for fluid milk sales to such outlets. Accordingly, the marketing area definition adopted herein also would include all territory geographically within the boundaries of Clark County, Nev., that is occupied by governmental (municipal, county, State, or Federal) reservations, installations, institutions, or other establishments. Where such an establishment is partly within and partly without Clark County, the entire establishment shall be included in the marketing area.

It is concluded that the marketing area proposed herein should result in effective regulation of the principal handlers who compete for sales in the Las Vegas area, and throughout southern Utah, without bringing under regulation plants having minimal sales within the marketing area.

All producer milk received at plants to be regulated must be made subject to classified pricing under the order regardless of whether it is disposed of within or outside the marketing area. Otherwise the effect of the order would be nullified and the orderly marketing process would be jeopardized.

If only a pool handler's "in-area" sales were subject to classification, pricing, and pooling, a regulated handler with Class I sales both inside and outside the marketing area could assign any value he may choose to his outside sales. He thereby could reduce the average cost of all his Class I milk below that of other regulated handlers having all, or substantially all, of their Class I sales within the marketing area. Unless all milk of such a handler were fully regulated under the order, he in effect would not be subject to effective price regulation.

The absence of effective classification, pricing, and pooling of such milk would disrupt orderly marketing conditions within the regulated marketing area and could lead to a complete breakdown of the order. If a pool handler were free to value a portion of his milk at any price he chooses, it would be impossible to enforce uniform prices to all fully regulated handlers or a uniform basis of payment to the producers who supply the market. It is essential, therefore, that the order price all producer milk received at a pool plant regardless of the point of disposition.

Route disposition.—The term "route disposition" should mean a delivery to a retail or wholesale outlet (except to another plant), either directly or through any distribution facility (including disposition from a plant store, vendor, or vending machine), of a fluid milk product classified as Class I.

Fluid milk products are sometimes moved from a milk plant to a facility such as a warehouse, loading station, storage plant, or other transfer point on the way to a wholesale or retail outlet. The distribution from such point would be considered as a continuation of a route from a milk plant. To do otherwise would be inappropriate because it would consider the disposition of fluid milk products to have been made at the temporary storage facility instead of at the location where such products are received by retail and wholesale purchasers.

Definitions of plants.—Essential to the operation of a marketwide pool is the establishment of minimum performance standards to distinguish between those plants substantially engaged in serving the fluid needs of the market and those plants that do not serve the market in a way, or to a degree, that warrants their sharing (by being included in the market pool) in the market average utilization of Class I milk.

Such distinction is necessary; otherwise, the proceeds of the higher Class I price would be dissipated by including in the market pool additional quantities of milk acquired by handlers primarily for manufacturing purposes. Such proceeds could accrue in part to the benefit of dairy farmers supplying milk to handlers who do not furnish the fluid milk needs of the market on a regular, dependable basis. Unless adequate standards of marketing performance are provided to determine which milk and plants should participate fully in the market pool funds, the uniform price of the market could be depressed to the point that it would not serve its function of attracting a dependable supply of milk sufficient for the fluid needs of the market without a Class I price higher than otherwise would be necessary.

Delivery performance should be the measure of whether a plant is sufficiently identified with the market to be fully subject to the pricing and pooling provisions of the order. Of necessity, it must apply uniformly to all plants. The standards for pool participation are discussed later in this decision in connection with the definition of a pool plant.

Regardless of its location, any plant should have equal opportunity to comply with the standards of performance and have their producers share in the available Class I sales. Whether the plants and producers choose to supply the market will depend on the economic circumstances with which they are confronted, such as prices, transportation costs, and alternative outlets.

Because of the difference in marketing functions between distributing plants and supply plants, separate performance standards are provided.

A "distributing plant" is defined herein as a plant in which milk approved by a duly constituted regulatory agency for fluid consumption, or filled milk, is processed or packaged and from which there is route disposition in the marketing area during the month.

A "supply plant" is defined herein as a plant from which fluid milk products acceptable to a duly constituted regulatory agency for fluid consumption, or filled milk, is transferred during the month to a pool distributing plant.

Pool plants.—To qualify as a pool plant, a distributing plant would be required to meet performance standards both as to the proportion of its receipts used in route disposition, and its route disposition in the marketing area.

Pool distributing plants would include only plants having as a primary function the route disposition of fluid milk products. The plant's total route disposition, both inside and outside the marketing area, must be at least 50 percent of its receipts of Grade A fluid milk products from all sources and producer milk diverted to nonpool plants. In addition, the plant's route disposition in the marketing area must be at least 10 percent of such receipts.

It is expected that under normal circumstances any plant distributing Class I milk in the marketing area on a regular basis would exceed by a comfortable margin the minimum performance standards for pooling.

Three plants located in the bordering States of California and Utah have some route disposition in the Lake Mead marketing area. Two of the plants are subject to regulation under the California Bureau of Milk Stabilization and the other one is regulated under the Great Basin Federal order. The hearing did not provide reasons to expect that these plants will meet the 10 percent in-area route disposition requirement for pooling under the Lake Mead order. There may be other such plants in the future. All plants, not subject to the pricing and pooling provisions of another Federal order with route disposition in the marketing area should be required, however, to file reports and make available their records for audit by the market administrator as a basis of determining their status under the pooling requirements.

A proprietary handler representative proposed that the minimum in-area route disposition to qualify a distributing plant for pooling be 15 percent of receipts of Grade A milk, including producer milk diverted. The handler witness contended that the minimum in-area

route disposition requirement proposed by producers be raised so that a plant located in Los Angeles definitely would not qualify as a pool plant. The witness stated that about 8 percent of the receipts at the Los Angeles plant is distributed in the southern Nevada area. The witness indicated further that such plant anticipates expanded sales in the southern Nevada area in the near future.

The operation of the pool is an essential feature of the regulation, which is designed to maintain orderly marketing, since it is the mechanism through which producers enjoy the benefits of the Class I sales value and also share equitably in the burden of any lower-valued surplus disposition.

We conclude that the interests of the producers are served best when the maximum proportion of milk regularly supplied to the market is regulated on such terms. The provision provided herein will accomplish this and at the same time will permit exemption from pooling milk at a plant that might only incidently, or perhaps accidentally, become involved in distribution within the marketing area.

As a general proposition any percentage higher than 10 percent would make possible a higher incidence of exemption from regulation for distributing plants. In the particular instance cited, the California plant has a large volume of fluid milk disposition, and 15 percent of such plant's volume would represent a substantial portion of the Lake Mead market. We find no basis in this proceeding to warrant adoption of a provision that would tend to reduce the proportion of that milk pooled.

The in-area route disposition standard for pooling would not restrict, however, any milk plant operator from disposing of fluid milk products in the marketing area. On the other hand, the operator of any plant only marginally associated with the market has a reasonable opportunity to make a choice of full or partial regulation, whichever might better serve his interest.

The further appropriate criterion for a pool distributing plant is that plant utilization be basically for fluid disposition. The definition provided herein specifies that 50 percent or more of the Grade A receipts received by the distributing plant must be disposed of on routes (in or out of the marketing area) as fluid milk products (except filled milk).

"Supply plant" is the other plant category for which standards for pooling must be provided. A supply plant would be a plant from which a fluid milk product acceptable to a duly constituted regulatory agency for fluid consumption, or filled milk, is transferred during the month to a pool distributing plant.

To qualify as a pool plant, a supply plant would have to transfer to pool distributing plants in the form of fluid milk products at least 50 percent of its Grade A milk receipts from dairy farmers. A plant thus transferring the major portion of its receipts from dairy farmers to regulated distributing plants makes a substantial contribution towards providing an adequate supply for the market and hence may reasonably be considered as an integral part of the fluid milk supply for the market.

A supply plant from which a proportionately lesser quantity of milk than herein provided is transferred to pool distributing plants without otherwise having established a continuing association with the market should not, under present conditions, be considered as contributing sufficiently to the market supply to share in the pool funds.

At the hearing, a witness for proponent cooperatives stated that there is no plant currently serving the Lake Mead market that would qualify as a supply plant. Perhaps supply plants will become associated with the market in the future. Accordingly, provision should be made for such a supply plant to participate in the pool if the performance standards are met.

The demand for supply plant milk may vary seasonally and normally would be greatest during the season of lower production. Requiring qualifying transfers to pool distributing plants during flush production months would result in the uneconomic movement of milk. During such months it would be appropriate to leave the more distant milk for manufacture in the distant area if not needed, and to use the nearer supplies for Class I. For this reason, the supply plant pooling standard should not require that milk be transferred to pool distributing plants in the flush production months solely for the purpose of maintaining the pool eligibility of a supply plant.

Therefore, a supply plant that was a pool plant in each of the immediately preceding months of August through February would be a pool plant for the months of March through July irrespective of its transfers to pool distributing plants, unless the operator of such a plant elects nonpool status for the plant.

Providing pooling status to a supply plant in March through July on the basis of transfers in the preceding August–February period will provide continuing producer status to dairy farmers who are recognized as milk suppliers of the market. However, a plant should be permitted to withdraw from pool status at the operator's option in any of the months of March through July in which it has not otherwise qualified as a pool plant. A plant withdrawn from pool plant status should not be reinstated, however, for any subsequent month of March through July unless it meets the shipping percentage for such month. In these circumstances it should be treated no differently than any other supply plant associating with the market for the first time.

The standards provided herein for pooling supply plants are deemed to provide a reasonable and appropriate measure as to whether a plant is sufficiently identified with the Lake Mead market without, at the same time, excluding from pool participation handlers whose plants have been a regular and dependable source of fluid milk supply for the market.

Limited quantities (as provided in the attached order) of Class I milk may be sold within the regulated marketing area from plants not regulated under any Federal order. It is concluded that in present circumstances the application of "partial" regulation to plants having less association than required for marketwide pooling will not jeopardize marketing conditions within the regulated marketing area. Official notice was taken at the hearing of the Assistant Secretary's June 19, 1964, decision (29 FR 9002) supporting amendments to 76 orders, in which the matter of partial regulation was discussed. The findings of that decision, as they relate to an unregulated plant having some Class I distribution in a marketing area, are appropriate for the designated marketing area and the decision is adopted in its entirety as is set forth herein.

The operator of a partially regulated plant would be afforded the options of: (1) Paying a compensatory charge with respect to route disposition in the marketing area; (2) purchasing at the Class I price under any Federal order sufficient Class I milk to cover his route disposition within the marketing area; or (3) paying his dairy farmers not less than the value of all their milk, f.o.b. plant, computed on the basis of the classification and pricing provisions of the order (the latter representing an amount equal to the order obligation for milk which is imposed on fully regulated handlers).

While all fluid milk sales of the partially regulated plant would not necessarily be priced on the same basis as fully regulated milk, the provisions described are, however, adequate under most circumstances to prevent sales of milk not fully regulated (pooled) from adversely affecting the operation of the order. They should be adopted in this order to complement the pooling standards for fully regulated plants adopted herein.

The order provides further that a distributing plant from which an average of less than 300 pounds of Class I milk per day, except filled milk, is disposed of in the marketing area shall be an "exempt distributing plant." There are some "jugging" operations in southern Utah. Such operations were described as being very small, and having only a "de minimus" impact in the competition for fluid milk sales. It would not promote efficient administration of the order to apply the order provisions to distributing operations that are competitively inconsequential. It is concluded that exempting such operations will not contribute significantly to disorderly marketing.

The pool plant provisions adopted herein specify that the definition of "pool plant" shall not include a producer-handler's plant or an "exempt distributing plant." Neither should it include a distributing plant or a supply plant that is subject to regulation by another order. The provisions provided herein include a reasonable means of determining the order under which a distributing plant or a supply plant

should be regulated when it meets the pooling qualifications of more than one order.

The pool plant definition should not apply to a distributing plant that also meets the pooling requirements of another Federal order and from which the Secretary determines there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, except that if such plant were subject to all the provisions of the Lake Mead order in the immediately preceding month, it would continue to be subject to all the provisions of the order until the third month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area unless, notwithstanding the provisions provided herein, it is regulated under such other order.

The provision is aimed at limiting the casual, disruptive shifting between orders on a month-by-month basis that can occur when intermarket route disposition results in qualifying a distributing plant for pooling under more than one order. While this is not expected to be a problem for the Lake Mead market in the foreseeable future, it is appropriate, at the outset of regulation, to make such provision in the order.

It is possible that a supply plant qualified for pooling under the Lake Mead order could qualify as a pool supply plant under another Federal order in the same month. While no specific proposal was made with respect to this issue, the order should provide for such a situation if it occurs. The order provides herein that such a plant be regulated by the order under which it makes the greater qualifying shipments, unless the milk goes for surplus disposal only and the plant elects to retain its automatic pool status under the Lake Mead order during the March through July period.

In computing whether a plant has met the applicable pooling percentages, the receipts and disposition of filled milk should be excluded. A detailed discussion of the need and basis for making certain provision for the disposition of filled milk under an order is contained in a decision issued by the Assistant Secretary on October 13, 1969 (34 FR 16881). It is made a part hereof by reference as the basis for adopting the same provisions in the Lake Mead order.

Nonpool plant.—A definition of "nonpool plant" is provided to facilitate formulation of the various order provisions as they apply to certain plants. A nonpool plant would mean a plant other than a pool plant that receives milk from dairy farmers or is a milk manufacturing, processing, or bottling plant. Specific categories of nonpool plants would be defined as follows:

(1) "Other order plant" is a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the act;

(2) "Producer-handler plant" is a plant operated by a producer-handler as defined in any order (including this order) issued pursuant to the act;

(3) "Partially regulated distributing plant" is a distributing plant that does not qualify as a pool plant and is not an other order plant, a producer-handler plant or an exempt distributing plant;

(4) "Unregulated supply plant" is a supply plant that does not qualify as a pool supply plant and is not an other order plant, a producer-handler plant, or an exempt distributing plant; and

(5) "Exempt distributing plant" means a distributing plant from which less than an average of 300 pounds of Class I milk per day, except filled milk, is disposed of in the marketing area during the month.

Handler.—The primary impact of an order is on handlers. A handler definition is necessary to identify those individuals from whom the market administrator must receive reports, and who have financial responsibility to pay for milk in accordance with order terms. As herein provided, the definition includes: (a) A person operating pool plants; (b) a cooperative association with respect to producer milk diverted for its account from a pool plant to a nonpool plant; (c) a cooperative association with respect to milk delivered from the farm to a pool plant in a tank truck under its control; (d) a person operating a partially regulated distributing plant; (e) a producer-handler; (f) a person in his capacity as the operator of an other order plant; (g) the operator of an unregulated supply plant, and (h) the operator of an exempt distributing plant.

To facilitate the diversion of milk to nonpool plants, a cooperative association is accorded handler status for milk it causes to be so diverted on its account from any pool plant to a nonpool plant.

A cooperative would be the handler also for any milk delivered from the farm to a pool plant in bulk in a tank truck owned and operated by, or under contract to, the cooperative association. Providing so will add flexibility to a cooperative's operations in allocating milk marketed by it to handlers. In this connection, the order recognizes in this and other relevant provisions that a cooperative association may, under the Capper-Volstead Act, market the milk of some producers who are not members of the association.

Producers proposed that a cooperative association be permitted to elect to be the handler on such farm bulk tank milk. Once milk from a producer has been commingled with milk of other producers in a tank truck, there is no further opportunity to measure, sample, or reject the milk of any individual producer whose milk is included in the load. A similar situation prevails when the milk of an individual producer is delivered in a tank truck to two or more plants. The operator of a pool plant to which bulk tank milk is delivered has an opportunity to determine only the weight and butterfat test of the total load.

If a tank truck picking up milk at the farm is operated under the supervision of a cooperative association, it is the association that determines the weight and butterfat content of each producer's milk. Handlers have no control and generally take no part in determining the weight and butterfat test of milk at the farm. In some instances, handlers may not even know from which farms their milk supplies are shipped. Accordingly, the order should provide that the cooperative be the handler on such milk.

The milk delivered by the cooperative as a bulk tank handler would be considered as a receipt of producer milk by the operator of the pool plant at which it was actually received. The pool plant operator's obligation for such milk to the producer-settlement fund, and to the administrative fund, would be computed the same on such milk as for producer milk received directly from the farm of an individual producer.

Differences between the quantities of producer milk determined at the farm and ascertained as actually received by the operator of the pool plant would be considered a receipt of producer milk by the cooperative association handler at the location of the plant where the milk is actually received. For such differences the cooperative (instead of the pool plant operator) would be required to settle with the producer-settlement and administrative funds.

Producer-handler.—The term "producer-handler" should apply to any person who produces his own milk and operates a distributing plant from which there is route disposition in the marketing area. Also, for designation as a producer-handler, such person may not receive or acquire for distribution milk products from any source other than receipts by transfer from pool plants or other order plants within the limits prescribed herein.

When a person operates a dairy farm and a fluid milk processing business it has not been necessary under Federal orders to require him to account for milk so produced at a particular minimum price. The producer-handler assumes the burden of maintaining the necessary reserve supply of milk associated with his fluid milk operation and of disposing of any daily or seasonal surpluses he may produce.

Experience under Federal orders generally has demonstrated that effective regulation of the market has been insured without direct involvement of persons who produce, process, and distribute essentially milk of their own production and who buy no milk from other dairy farmers or from other sources except as provided in the order. Persons who assume a dual role of producer and handler and who must carry their own balancing supplies have no demonstrable advantage either as a producer or a handler.

Under the order provided herein a producer-handler is not permitted to supplement his own production with receipts from other producers. To permit a producer-handler to supplement his own production with receipts from other producers whenever his fluid milk sales

exceed his own production would result in the pool producers bearing the burden of the surplus associated with such milk.

Neither is a producer-handler permitted to bottle milk for another producer-handler. Were this to happen both producer-handlers automatically would lose such status. The receipt of milk at the bottling plant would be considered a receipt from a producer and the milk packaged and sold would be considered as sold by a handler.

As long as he retains his exempt status, the only obligation imposed on a producer-handler by the order is to keep records, to file reports with the market administrator and to permit their verification. The purpose of such reports is to permit the market administrator to verify that the operation continues to be one of a bona fide producer-handler. Such reports are necessary regardless of the size of the producer-handler operation.

Under the order contained herein, a producer-handler is expected to provide milk for his processing operation from his own farm production. However, he is permitted to buy fluid milk products from pool plants or other order plants during the month in an amount that does not exceed the lesser of 5 percent of his Class I utilization or 5,000 pounds. This limit is aimed at assuring that a producer-handler does not rely on the pool to balance the variation in his own production.

The provisions herein do not preclude a producer-handler from receiving and distributing nonfluid milk products such as butter, cheese, and ice cream which may be purchased from other sources. They would, however, prevent him from reconstituting nonfat dry milk for use as skim milk as beverages of any sort, including filled milk. An exception to this is that a producer-handler may use nonfat dry milk to increase the nonfat milk solids content of his fluid milk.

Receipts of milk at a pool plant from producer-handlers should be considered as other source milk. Otherwise, producer-handlers who do not share their own Class I sales by pooling would share in the Class I sales accruing to producers in the market. At the same time the producer-handler would not be bearing his proper share of the lower-valued reserve supplies associated with his Class I sales.

Various business arrangements, including superficial association with the milk production operation, may be used to acquire an appearance of true producer-handler operation. To preclude the use of such devices the order should provide that the producer-handler shall provide the market administrator the proof necessary to show that (a) the care and management of all the dairy animals and other resources necessary to produce the entire volume of fluid milk products handled is the personal enterprise of and at the personal risk of such person, and (b) the operation of the distributing plant is the personal enterprise of and at the personal risk of such person. A producer-handler would be required to make such reports of his receipts and utilization as the market administrator deems necessary to verify the status of such person's operation and to facilitate vertification of transactions with other handlers.

Producers proposed to limit producer-handler status to operations of not more than 300 pounds daily. This should not be adopted. No testimony was presented to show that the size of a producer-handler's operation per se, currently or potentially, would provide a cost advantage on Class I milk to such operation, or that such an operation handling more than 300 pounds of milk daily would be a disruptive factor in the market. Moreover, it was not established that exempting those persons handling more than 300 pounds of milk per day would affect adversely the competitive position of regulated handlers or producers. As indicated previously, a producer-handler in relying essentially on his own production to furnish his fluid milk sales must carry his own balancing supplies. In this circumstance, it is concluded that he has no demonstrable advantage either as a producer or a handler.

Producer.—Producer should mean any person (except a producer-handler) who produces milk in compliance with the inspection requirements of a duly constituted regulatory agency, whose milk is received at a pool plant, or diverted therefrom under certain conditions to a nonpool plant that is not a producer-handler plant. The producer definition will aid in making the necessary distinction between the production of those dairy farmers whose milk will be priced and pooled each month under the Lake Mead order and the receipts at handlers' plants from all other sources not to be pooled.

"Producer" should not include a dairy farmer whose milk is actually received at a pool plant as diverted milk from an other order plant when Class II or Class III classification under this order is designated for such milk and it is subject to the pricing and pooling provisions of another Federal order. Likewise, "producer" should not include the milk of any dairy farmer whose milk is diverted to an other order plant when such dairy farmer is designated as a producer with respect to such milk under the other order. Excluding such dairy farmers from the producer definition will insure inter-order coordination by eliminating the possibility that a dairy farmer will be a producer under two orders with respect to the same milk.

The Lake Mead market is so situated that such dairy farmers in California may be in a position to deliver milk in excess of State quotas to plants regulated under the Lake Mead order. Proponents suggested that the producer definition exclude a dairy farmer who is a regular supplier for another market. Considering the size of the California market in comparison with the Lake Mead market, it is essential that the order provide safeguards against the influx of milk surplus to California's fluid market needs for temporary periods simply to share in the Class I sales of the Lake Mead market. A basic consideration of the order is that it promote orderly marketing for producers who are regularly associated with the Lake Mead market. Also, the regulation adopted herein provides protection for such producers from the disorderly marketing conditions that otherwise could result from surplus milk associated with the market. It is appropriate that such protection also be afforded from the surplus milk associated with unregulated plants in other markets.

Since the receipts from dairy farmers for other markets at a pool plant can be considered to represent surplus (Class III) production associated with the unregulated plant, such "other source" receipts should be allocated to the Class III classification at the pool plant.

An exceptor requested clarification of the provision in the producer definition of the recommended decision designed to deal with this problem. To clarify the provision, the "producer" definition is revised to make clear that it will not include any person whose milk is received during the month at a nonpool plant, except by diversion to an ungraded manufacturing plant or to an other order plant where designated and used for manufacturing. Thus, a person would not be a producer under the Lake Mead order in any month that only part of his milk was delivered to a Lake Mead pool plant and the remainder was delivered to a nonpool plant where it was made available for Class I use.

The recommended decision provided also that the producer definition shall not include a person with respect to milk produced by him that is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk. The provisions should be clarified to provide that such non-producer status shall result if any of the milk diverted is allocated to Class I under the other order. The diversion of milk for surplus use, however, should not result in the loss of producer status under the Lake Mead order unless the provisions of the other order designate such person as a producer under the other order. Diversion of milk for surplus disposition is an indication that the producer remains associated with the Lake Mead market.

Producer milk.—Producer milk is intended to include all milk that should receive the benefit of the minimum uniform price. Accordingly, it should be defined as all skim milk and butterfat contained in Grade A milk received at a pool plant directly from producers and milk of producers qualified under the diversion provisions.

When such milk is not needed in the market for Class I purposes, the movement of it to a nonpool plant for manufacturing purposes should be facilitated. It is necessary, however, to provide limits on the amount of milk that may be diverted in order that only that milk regularly associated with the market will be diverted when it is not needed in the market for Class I purposes.

Producers associated with this market are not expected to produce large quantities of milk in excess of the market's

fluid needs. Diversion provisions are provided herein primarily to enable handlers and cooperative associations to divert producer milk on such occasions as weekends and holidays when the milk is not needed in the market for Class I purposes.

Diversion of producer milk to a nonpool plant by a cooperative association should be limited to 30 percent of the producer milk delivered to pool plants during the months of March through July and 20 percent thereof in the other months. Similarly, a pool plant operator (other than a cooperative association) should be permitted to divert milk of producers not otherwise diverted by a cooperative association, subject to similar diversion limits. Producer proponents proposed these diversion proportions, and they are appropriate in view of the relatively high Class I utilization of the market.

Only that milk regularly associated with the market should be eligible to be diverted to nonpool plants. At least 20 percent of the production of a producer should be received at a pool plant during the month to qualify any of his production in the same month for diversion. Such requirement is sufficient to establish a producer's association with the fluid market and still permit flexibility in diverting milk not needed for fluid use.

Milk diverted to nonpool plants in excess of the limits provided would not be considered producer milk. Hence, eligibility for pricing and pooling under the order would be forfeited on such excess. In such instances, it is necessary that the diverting handler specify which milk is ineligible as producer milk. If the handler fails to make such designation, thereby making it infeasible for the market administrator to determine which milk was overdiverted, all milk diverted to nonpool plants by such handler would be ineligible as producer milk.

Producer milk diverted should be priced at the location of the plant to which diverted. If such milk were priced at the pool plant from which diverted more distant producers would, in effect, be subsidized when their milk is diverted to distant manufacturing plants. This is because such producers would receive the f.o.b. market price as if their milk had actually moved to the market, but on which the transportation cost to the market had not been incurred. Thus, the pool price to all producers is reduced by the difference in prices for the two locations applied to the milk diverted.

Other source milk.—An "other source milk" definition should be provided in the Lake Mead order. In addition to milk received from producers, a handler may receive milk or milk products from other sources. The other source milk definition would implement the identification of various categories of receipts at a regulated plant.

Fluid milk products and bulk fluid cream products from any source other than producers, cooperatives acting as handlers on farm bulk tank milk, pool plants and plant inventories at the beginning of the month should be considered as other source milk.

Other source milk also should include any receipts in packaged form of fluid cream products, eggnog or yogurt (or any filled product resembling such products). These are Class II products under the classification plan adopted herein. Although no handler obligation would apply under the order to the receipts of packaged Class II products, it is desirable for accounting purposes that such receipts be defined as other source milk. This accounting procedure will preclude the recordkeeping difficulties that might otherwise be experienced in accounting separately for inventories and sales of Class II products processed in the handler's plant versus those received at the plant in packaged form from other plants. As provided herein, such receipts of other source milk would be allocated directly to the handler's Class II utilization rather than being allocated to the extent possible to the handler's lowest utilization as is provided in some cases for other types of other source milk.

All manufactured dairy products from any source (including those produced at the plant) that are reprocessed, converted into, or combined with another product in the plant during the month should be defined as other source milk. For accounting purposes under the order, such manufactured products should include dry curd cottage cheese received at a pool plant to which cream is added before distribution to consumers. When used to produce cottage cheese or lowfat cottage cheese, the receipts of dry curd would be allocated directly to the handler's Class II utilization and no handler obligation would apply under the order to such receipts.

Other source milk also should include any disappearance of manufactured milk products for which the handler fails to establish a disposition. It is reasonable that each handler be required to account fully for all milk and milk products received or processed at his plant. Otherwise, a handler with inadequate records could have an opportunity to gain a competitive advantage over his competitors who properly account for all milk. Specifying any unexplained disappearance of manufactured milk products as other source milk will contribute to a uniform application of the regulatory plan to all handlers.

(b) *The classification and allocation of milk.*—As proposed by producers, the order should provide for three classes of utilization.

The statutory authority for Federal milk orders specifies that an order shall classify milk in accordance with the form in which or the purpose for which the milk is used.

Class I milk.—Milk sold in the Lake Mead market for fluid consumption must be produced in compliance with the inspection requirements of various regulatory agencies. This is in contrast to the absence of such requirements on manufactured dairy products sold in the area, such as butter and hard cheese. Because of the extra cost of getting high quality milk produced and delivered to the market for fluid use in the condition and quantities required, it is necessary to establish a separate class for such milk to which a price considerably above the manufacturing milk price may be applied. This higher price must be at a level which, together with the prices applicable to the other classes, will yield a blend price to producers that will encourage the production of enough milk to meet the market's fluid needs.

Accordingly, the Class I classification adopted herein includes, with certain exceptions, those milk products processed for fluid consumption that must be made from inspected milk. Class I milk should include all skim milk and butterfat disposed of in the form of milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids. Skim milk and butterfat disposed of in any such product that is flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted likewise should be classified as Class I milk. Such classification should apply whether the products are disposed of in fluid or frozen form.

In addition, Class I milk should include all skim milk and butterfat disposed of in the form of any other fluid or frozen milk product (if not specifically designated as a Class II or Class III use) that contains by weight at least 80 percent water and 6.5 percent nonfat milk solids, and less than 9 percent butterfat and 20 percent total solids.

Skim milk disposed of in any product described above that is modified by the addition of nonfat milk solids should be Class I milk only to the extent of the weight of the skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

As a convenience in drafting order provisions, each product designated herein as a Class I product would be defined in the order as a "fluid milk product."

Class I milk should include also any skim milk and butterfat not specifically accounted for in Class II or Class III, other than shrinkage permitted a Class III classification.

Since this decision does not provide an exception to the Class I classification of milk because of sterilization, specific reference must be made in the "fluid milk product" definition to the exclusion of certain Class III sterilized products that otherwise could be construed to fall within such definition. Such products are evaporated or condensed milk or skim milk, formulas in hermetically sealed glass or all-metal containers that are especially prepared for infant feeding or dietary use, and products (such as flavored drinks in "pop" bottles) containing by weight less than 6.5 percent nonfat milk solids. Evaporated milk and condensed milk sold for home use are intended primarily for cooking purposes. They are not consumed normally as a beverage. Infant and dietary formulas, which are being sold in hermetically sealed glass or all-metal containers, are

specialized food products prepared for a limited use. Such formulas do not compete with other milk beverages consumed by the general public. Similarly, fluid products containing only a minimal amount of nonfat milk solids are not considered as being in the competitive sphere of the traditional milk beverages.

Cooperatives proposed that milkshake mixes that "are not further processed in a commercial establishment" be in Class I. They proposed that all other milkshake mixes be in Class II.

Milkshake and ice milk mixes are marketed generally through two channels. Limited quantities of such mixes are processed for home consumption, with such mixes being distributed to consumers through foodstores and on home delivery routes. The major outlet for milkshake and ice milk mixes, though, is the so-called "soft-serve" trade. Mixes processed by regulated handlers for this use are sold to commercial establishments where the product is run through a special freezer and dispensed to the public in a semisoft form.

Milkshake and ice milk mixes are basically similar in composition and purpose to what might be considered as traditional frozen desserts, such as ice cream. Although such shake mixes are intended to be consumed in a semisoft form, or even in a very thick fluid form, they are marketed for essentially the same use as the traditional frozen desserts. This is the case whether such mixes are sold through the "soft-serve" trade or for home use. With minor exception, as noted below, milk used in milkshake and ice milk mixes thus should be classified in the same class as milk used in the traditional frozen desserts. As discussed later in this decision, the classification plan adopted herein includes frozen desserts in Class III.

It is possible that a product very similar in composition and form to chocolate milk could be marketed under the label of a milkshake mix for the purpose of having a lower classification apply to the product. Since such a product actually would have the same general form and purpose as other fluid milk products now classified as Class I under the order, it should be included in the Class I classification. It is necessary, though, to provide some means of distinguishing between such a product and the general category of milkshake mixes that are being sold in competition with frozen desserts. For this purpose, the total solids content of the product should be used. A standard of 20 percent or more total solids should encompass those milkshake and ice milk mixes intended for use as a type of frozen dessert. Mixes with less solids are similar in composition to chocolate milk and other flavored fluid milk products and should be a Class I product.

Cooperatives, in representing producers, proposed that the amount of a modified fluid milk product that is classified as Class I milk be the actual weight of the modified product rather than the weight of a like unmodified product, as adopted herein and as commonly provided under other Federal orders. Their proposed procedure, relative to that adopted herein, would increase slightly the quantity of a modified product priced in Class I.

The Lake Mead order would provide for the accounting of all nonfat dry milk or condensed skim milk used by a handler on a skim milk equivalent basis. Such products are ordinarily derived from unpriced milk or milk that has been priced as surplus milk under a Federal order. An economic incentive would exist for handlers to substitute, where possible, reconstituted skim milk in Class I products for an equivalent amount of producer skim milk. Full skim milk equivalent accounting is thus necessary in applying the order's classified price plan to such types of other source milk.

Handlers may add concentrated nonfat milk solids to a Class I product to increase the product's palatability. Such modification of the Class I product, in contrast to reconstitution, increases the volume of the product only slightly. Any displacement of producer milk in Class I in this case is limited to this minor increase in the volume of the modified Class I product. Thus, the quantity of a modified fluid milk product to be classified in Class I should be limited to the weight of an equal volume of an unmodified product of the same nature and butterfat content. Any greater amount is unnecessary in protecting the classified price plan for producers.

Fluid milk products should not be defined only on the basis of product composition, as was proposed by cooperatives. Contending that conventional fluid milk product definitions that list products by name do not identify clearly those products intended to be in Class I, cooperatives proposed that a fluid milk product be defined solely in terms of moisture and milk solids content of the product. As proposed by producers, a "fluid milk product" would be any product containing at least 6.5 percent but less than 27 percent nonfat milk solids, less than 9 percent butterfat, and more than 20 percent moisture, all computed on the basis of weight.

In support of their proposal, proponents contended that the listing of products under a fluid milk product definition does not accommodate the proper classification of new products or variations of the listed products when they are introduced on the market. They pointed out that the market administrator would have to make order interpretations in response to this situation. Adoption of their proposed definition, it was contended, would eliminate such problems because any product meeting the specified composition limits for a fluid milk product would be a fluid milk product regardless of the name under which the product might be marketed.

For simplicity, the fluid milk product definition should list the generic names of those products commonly sold for consumption as beverages. The products listed in the definition provided herein encompass most of the forms in which milk for fluid uses is sold. Anyone referring to this fluid milk product definition may easily ascertain, in the case of most milk products, whether a particular product is included in the definition.

A listing of products alone in the fluid milk product definition may not clearly indicate the classification of new milk products developed for fluid consumption. With certain limited exceptions noted, the fluid milk product definition is intended to include all milk products that are distributed for use as beverages. Although a new milk beverage introduced on the market might not be encompassed within the list of named products, it should be treated as a fluid milk product if its composition is similar to that of the listed products. This will be the result of the standards of product composition for fluid milk products herein adopted.

As indicated, the composition standards proposed herein would embrace any fluid or frozen milk product not specified as a Class II or Class III product that contains by weight at least 80 percent water and 6.5 percent nonfat milk solids, and less than 9 percent butterfat and 20 percent total solids. The 9 percent butterfat standard coincides with the butterfat percentage provided herein to delineate the mixtures of cream and milk or skim milk to be included in Class II. The total solids and water percentages represent a reasonable measure of the fluidity of those products that normally are consumed as beverages. The 6.5 percent nonfat milk solids standard is used to exclude from the fluid milk product definition those products which contain some milk solids but which are not closely identified with the dairy industry, such as chocolate flavored drinks in "pop" bottles.

These composition standards are provided so as to conform as closely as possible to the water, solids, and butterfat content of those products specifically listed in the fluid milk product definition, i.e., the traditional milk beverages. It is intended that these standards apply only to milk products, and only to such products that are being marketed for consumption in fluid form. Such standards would not be applied to products such as soups, which are not customarily thought of as milk products, or to products that would be a type of frozen dessert marketed for consumption in frozen form.

In determining whether a milk product is covered by the composition standards of the fluid milk product definition, such standards should be applied to the composition of the product in its finished form. A product may be modified by the addition of nonfat milk solids or concentrated through the removal of water. In these cases, the composition standards should be applied to the composition of the product as it is marketed, not to the composition of the product on a skim equivalent basis. Application of the composition standards on the latter basis could result in defining as a fluid milk product a product clearly not intended as a milk beverage. For all other purposes under the order, however, the product should be accounted for on a skim equivalent basis.

The use of composition standards as a means of defining fluid milk products would not deter the development of new milk products. Should the Class I classification of a new product appear to be incongruous with the intended use of the product, the hearing process remains as an avenue through which a different classification may be considered.

Class II milk.—Class II milk should include all skim milk and butterfat disposed of in the form of eggnog, yogurt, or a "fluid cream product," i.e., cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat. Any product containing 6 percent or more nonmilk fat (or oil) that resembles any of these products likewise should be in this class. Also, eggnog, yogurt, and fluid cream products that are in inventory at the end of the month in packaged form should be in Class II.

Included also in this classification should be skim milk and butterfat used to produce cottage cheese, lowfat cottage cheese, and dry curd cottage cheese. Skim milk disposed of in any Class II product that is modified by the addition of nonfat milk solids should be Class II milk only to the extent of the weight of the skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

Cooperatives proposed that the Lake Mead order provide for an intermediate classification (Class II). The proposed Class II uses would include cottage cheese, any other cheese containing more than 50 percent moisture, cheese dips, ice cream, frozen desserts, milkshake mixes for further processing in commercial establishments, eggnog, yogurt, evaporated or condensed milk or skim milk, dietary and infant formulas, custards, puddings, pancake mixes, and any product with 6 percent or more nonmilk fat (or oil). In addition, Class II also would include mixtures of cream and milk, or skim milk containing 9 percent or more butterfat, cream in plastic, frozen, aerated, or sterilized form, sour cream, sour mixtures, and anhydrous milkfat.

In support of their proposed Class II classification, proponent cooperatives indicated that of the products not included in Class I all but the so-called "hard" products (butter, dried products, and certain hard cheese) should be included in Class II. They stated that these proposed Class II products, unlike the hard products, are less storable and thus produced only in response to current demand. In addition, proponents claimed that handlers in the market normally rely on Grade A milk for the proposed Class II products. Proponents contended that for these reasons producer milk used in such Class II use should be priced at a level somewhat above the price applicable to milk disposed of in the residual Class III uses.

Of the products adopted herein for inclusion in Class II, the one of major importance is cottage cheese. There are several distinguishing characteristics of cottage cheese production that support a higher price for milk in this use than for milk channeled into the residual surplus uses. There is little, if any, relationship between the quantity of cottage cheese made and the amount of reserve milk in the market, as is the case with respect to butter and nonfat dry milk for instance. Unlike such other manufactured products, cottage cheese has more limited storage life and must be processed on a regular basis. Thus, as in the case of fluid milk products, handlers generally want adequate supplies of fresh, high-quality producer milk to be available at their plants for cottage cheese use.

Milk used in yogurt should be priced at the Class II price. Yogurt, which is a soft, nonfluid, "spoonable" product, has some of the marketing characteristics of cottage cheese. Although yogurt can be made from cream and nonfat dry milk, processors generally prefer milk. Since yogurt has a relatively limited shelf life, it is made on a continuing basis, thus requiring a regular supply of milk at all times. As in the case of cottage cheese, these conditions warrant that producer milk in yogurt be priced at a level above the price for milk disposed of through the traditional residual uses for surplus milk.

Class II should not include yogurt flavored frozen desserts. Frozen desserts containing milk cultured with the lactic acid producing bacteria used in yogurt may be marketed in such forms as sherbet mix for the "soft-serve" trade, yogurt cones, and chocolate covered frozen yogurt on a stick. These products compete with other frozen desserts and thus should be classified in the same Class III classification provided herein for such other frozen desserts.

Class II milk also should include eggnog. Although eggnog is prepared for use as a beverage it should not be a Class I product because of competition from imitation products. Eggnog has a relatively high butterfat content and the limited sales of the product are highly seasonal. A substantial portion of the marketings of this type of product is in the form of imitation eggnog. Classification of eggnog in Class II rather than Class I will materially enhance the competitive position of the product in the marketplace.

With the establishment of an intermediate price class under the Lake Mead order, it is appropriate that any "filled" product containing 6 percent or more nonmilk fat (or oil) that resembles the proposed Class II products made with milk fat likewise be included in this class. The substitution of nonmilk fat for milk fat in a product merely changes the composition of the product and not its use. For competitive reasons, a comparable classification of products made with milk fat and their filled counterparts is necessary.

The adopted Class II classification for cream products should enhance their competitive position in the Lake Mead market relative to nondairy substitutes. Cream products sold by Nevada handlers are now priced at the same level as other Grade A fluid products. In recognition of the competitive inroads on cream sales by substitute products, however, cooperatives proposed that milk used in cream products be considered as a Class II use. Provision for this classification in the order will accommodate the desire of dairy farmers with respect to the returns from their milk.

In this connection, it is desirable to define in the order a "fluid cream product." "Fluid cream product" would mean cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

Class III milk.—Class III milk should include skim milk and butterfat used to produce cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese), butter, plastic cream, frozen cream, anhydrous milkfat, any milk product in dry form, milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, frozen dessert mixes, custards, puddings, pancake mixes, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, evaporated or condensed milk or skim milk in plain or sweetened form that is in a consumer-type package, any concentrated milk product in bulk, fluid form, and any product containing 6 percent or more nonmilk fat (other than a Class I product).

Other Class III uses should include fluid milk products and bulk fluid cream products in inventory at the end of the month, and that portion of modified (by the addition of nonfat milk solids) fluid milk products and Class II products not included in Class I or Class II. In addition, Class III should include any fluid milk product or product listed in the Class II classification that is disposed of for animal feed, or is dumped if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition. Also, shrinkage within certain limits should be classified as Class III milk.

The adopted Class III classification includes several uses for milk that cooperatives included in their proposed Class II classification. As discussed below, a higher price should not apply to such uses.

Frozen desserts (including commercial milkshake and ice milk mixes), dietary and infant formulas, custards, puddings, pancake mixes, candy, soups, and other food products are made in varying degrees from concentrated forms of milk. Condensed milk or skim milk, nonfat dry milk, dry buttermilk, dry whey, butter, plastic cream, or frozen cream, for example, may be used, often interchangeably or in combination, in the processing of such products. Because of processing techniques and product formulations, milk in its whole, fluid form does not lend itself to the processing of these various manufactured products. Thus, a

milk plant operator or other food processor using producer milk in such products first would have to concentrate the milk before making the finished product. Moreover, such products are relatively storable and can be made in the flush milk production months for sale during the low production months.

When the cost of converting producer milk into a concentrated "intermediate" product is considered, such milk priced 15 cents over the Minnesota-Wisconsin price, the Class II price adopted herein, would not be competitive with concentrated dairy products from other sources. Such concentrated products need not be made from Grade A milk. In addition, handlers could use dried products made from producer milk priced under the Lake Mead order. As provided herein, milk used to produce such dried products would be priced at the Minnesota-Wisconsin price.

Condensed milk or skim milk, plastic cream, frozen cream, and anhydrous milkfat are "intermediate" products that also should be included in the lowest classification. These products are normally used in making other products, primarily frozen desserts and food products such as candy. Under the classification plan adopted herein, frozen desserts and food products are Class III uses for milk. Accordingly, producer milk used in the several intermediate products likewise should be priced at the Class III level.

A Class III classification for producer milk used in evaporated milk will permit this use to remain as a competitive outlet for milk surplus to the needs of the Class I market. Evaporated milk must compete in a national market with evaporated milk processed from either graded or ungraded milk that is often priced at no more than the Minnesota-Wisconsin price.

All cheese products other than cottage cheese, lowfat cottage cheese or dry curd cottage cheese should be included in Class III. No distinction should be made for classification purposes between "hard" cheeses containing varying amounts of moisture. Although the cooperatives' proposed order provisions made such a distinction (hard cheese containing 50 percent or more moisture would be a Class II product), proponents did not provide any economic justification for such classification. It cannot be concluded from this record that producer milk used in "high" moisture hard cheese would have any significantly greater value to regulated handlers than milk used in cheese with a lesser moisture content.

Classification of shrinkage.—The Lake Mead order should contain provisions for classifying skim milk and butterfat in shrinkage.

Basically, the shrinkage provisions adopted herein are similar to the shrinkage provisions now provided in most Federal milk orders.

The commonly used method of prorating total plant shrinkage to (1) those kinds of receipts on which the shrinkage limitations apply, and (2) other receipts, principally other source milk in the form of fluid milk products requested for Class II or Class III use, is provided herein. To the extent that the quantity of shrinkage prorated to the first category exceeds the established limit, the excess would be classified in Class I.

The shrinkage provisions provided herein recognize that shrinkage normally varies with the type of handling involved. More loss is usually experienced in plant processing than in merely receiving milk for delivery to another handler. Thus, with respect to delivery of milk by a cooperative association handler from farms to plants in tank trucks, a Class III shrinkage allowance of 0.5 percent of such milk is provided. Any excess shrinkage over 0.5 percent is classified as Class I milk.

The Class III shrinkage allowance to the processing plant receiving the milk from the cooperative would be 1.5 percent. This maintains a total of 2 percent Class III shrinkage allowance for such milk from producers in the receiving and processing operations.

The provisions adopted herein are designed to carry out the appropriate division of shrinkage whether the plant operator purchases the milk at farm weights and tests or at plant weights and tests. The provisions allow the plant operator up to 2 percent shrinkage in Class III if he buys the milk on the basis of weights determined at the farm and butterfat tests determined from farm bulk tank samples. In this case, there is no shrinkage allowance for the cooperative association delivering the milk.

As provided herein, when a plant operator disposes of bulk milk by transfer to another plant, his shrinkage allowance would be reduced at the rate of 1.5 percent of the quantity transferred. This is similar to provisions now applicable under most orders.

In the case of milk diverted from a pool plant to another plant, a shrinkage allowance in Class III of 0.5 percent would be provided the diverting handler if the operator of the plant to which the milk is diverted purchases such milk on the basis of weights and tests determined at the plant. If the milk is purchased at farm weights and tests, no shrinkage allowance would apply for the diverting handler. This is the same procedure applicable to cooperative bulk tank deliveries to pool plants when similar handling is involved.

This kind of division of the 2 percent shrinkage allowance, both in the case of transfers from cooperatives to plants and for transfers between plants, has been found practical and has been well accepted in Federal order markets where it now applies.

Shrinkage should be accounted for on an individual plant basis under the Lake Mead order. Such procedure would promote plant efficiency in the Lake Mead market.

Classification of milk transferred or diverted to other plants.—Some fluid milk products or fluid cream products may be disposed of to other plants. It is necessary, therefore, to provide specific rules so that the classification of such movements may be determined under this order.

Under the classification plan provided herein, fluid cream products would be classified as Class II products. If such products are transferred to another plant in packaged form, the skim milk and butterfat contained therein should be classified as Class II milk since these items are moved in final form. The classification of fluid cream products when disposed of in bulk form, however, is determinable only by following the movement of the bulk product to its subsequent use. Thus, it is necessary that fluid cream products that are transferred in bulk form from a pool plant to another plant be classified in a manner similar to that used in classifying transfers of bulk fluid milk products.

Some skim milk or butterfat may be transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant. Such transfers should be classified as Class I milk unless both handlers request the same classification in another class in their monthly reports to the market administrator and sufficient Class II or Class III utilization is available at the transferee-plant after the allocation of its receipts of other source milk. If the shipping plant received other source milk in the form of nonfat dry milk, for example, during the month, the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to the other source milk. If the shipping handler received other source milk from an unregulated supply plant or an other order plant, the transferred quantities, up to the total of such receipts, should not be Class I to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee-plant.

The provisions governing transfers between pool plants described herein will contribute to obtaining the best possible utilization of producer milk. Such provisions will tend to insure that producer milk used in Class I will not be classified in a lower class when interplant shipments involve a pool plant with receipts of other source milk. Unless such safeguards are provided, a high-utilization plant could be used as a conduit for assigning milk obtained from nonpool sources for manufacturing purposes to a higher utilization (at the expense of producer milk) than it would receive by direct delivery to the plant at which it is actually utilized.

Skim milk or butterfat may be transferred or diverted from a pool plant to an other order plant in the form of a fluid milk product or transferred from a pool plant to another order plant in the form of a bulk fluid cream product. The classification of such transfers or diversions shall apply only to the skim milk and butterfat in excess of any receipts at the pool plant from the other order plant.

The Lake Mead order should provide for the diversion of milk to other order plants for Class II or Class III use. Such

provisions will foster the efficient handling of surplus milk in the market by permitting the disposal of such milk directly from farms to manufacturing plants in other markets, rather than having such intermarket movements limited to the more expensive method of transferring milk from one plant to another. With the safeguards adopted herein, returns to producers in the market to which the milk is diverted will not be affected by the processing of this surplus milk in their market since the diverted milk will continue to be pooled in the Lake Mead market.

Fluid milk products transferred or diverted to other order plants and bulk fluid cream products transferred to such plants will be classified in accordance with the classes to which such milk is allocated under the other order. If information concerning the classification of transfers and diversions is not available to the market administrator in time to compute handler pool obligations, such transfers shall be classified in Class I, subject to adjustments when the information is available. In addition, the order should provide that if the other order provides for a different number of classes than the Lake Mead order, skim milk and butterfat allocated to a class consisting primarily of fluid milk products shall be classified in Class I and skim milk and butterfat allocated to other classes shall be classified as Class III milk. The order also provides that if a fluid milk product is transferred to an other order plant and such product is not defined as a fluid milk product under the other order, classification of such transfer shall be in accordance with the classification provisions of this order.

The order should prescribe a method for classifying the skim milk and butterfat in transfers from a pool plant to a producer-handler. If such skim milk and butterfat is in the form of a fluid milk product, such transfers should be classified as Class I milk. As described elsewhere in this decision, such a classification is necessary to assure that producers are not burdened with maintaining reserve supplies associated with the Class I sales of producer-handlers.

Skim milk and butterfat in the form of bulk fluid cream products transferred from a pool plant to a producer-handler should be assigned to the extent possible to the latter's Class III use, and then Class II use. If the producer-handler does not have enough utilization in these classes to cover such transfers, any remaining transfers should be classified as Class I milk.

The order also must prescribe a procedure for classifying transfers or diversions to a nonpool plant that is not an other order plant or a producer-handler plant. Bulk fluid milk products transferred or diverted and bulk fluid cream products transferred should be classified as Class I milk unless a lower classification is requested and the operator of the nonpool plant makes his books and records available to the market administrator for the purpose of verifying the receipts and utilization of milk and milk products in the nonpool plant. To determine such lower classification, the nonpool plant's utilization must be assigned to its receipts of milk from various sources.

Under the adopted assignment priorities, the first step is to assign the nonpool plant's Class I utilization to its receipts of packaged fluid milk products from all federally regulated plants. Such receipts should receive first priority on the nonpool plant's Class I use since all orders provide that such packaged transfers from a pool plant to an unregulated nonpool plant shall be classified as Class I milk. Thus, any Class I route disposition of the nonpool plant in the Lake Mead marketing area, and any transfers of packaged fluid milk products from the nonpool plant to Lake Mead pool plants, would be assigned, first, to the nonpool plant's receipts of packaged fluid milk products from plants fully regulated under the Lake Mead order and, second, to any such remaining packaged receipts from plants fully regulated under other Federal orders.

A similar assignment of any such remaining disposition (i.e., the aforesaid Class I route disposition and transfers of packaged fluid milk products) then would be made to the nonpool plant's receipts of bulk fluid milk products from pool plants and other order plants. Any other Class I disposition of packaged fluid milk products from the nonpool plant, such as route disposition in unregulated areas, would be assigned to any remaining unassigned receipts of packaged fluid milk products at the nonpool plant from plants fully regulated under any Federal order.

After these assignments, any Class I use at the nonpool plant that is attributable to the Class I allocation at a Federal order plant of fluid milk products transferred in bulk from the nonpool plant to the regulated plant would be assigned next. Such use would be assigned, first to the nonpool plant's remaining unassigned receipts of fluid milk products from plants fully regulated under the Lake Mead order and, second, to any such remaining receipts from plants fully regulated under other orders.

Any remaining unassigned Class I utilization at the nonpool plant then would be assigned to the plant's receipts of Grade A milk from dairy farmers and unregulated nonpool plants that are determined to be regular sources of Grade A milk for the nonpool plant. Any remaining unassigned receipts of fluid milk products at the nonpool plant from plants fully regulated under any order would be assigned to any of the nonpool plant's remaining Class I utilization, then to its Class III utilization, and then to its Class II utilization.

Following these assignments, any receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants would be assigned to the nonpool plant's remaining unassigned utilization in each class. Such assignment would be made in sequence beginning with the lowest class.

In determining the classification of any transfers or diversions from a pool plant to a nonpool plant, the utilization of any transfers from the nonpool plant to another unregulated nonpool plant also must be established. In this case, the same assignment priorities just outlined should apply also at the second nonpool plant.

The method herein provided for classifying transfers and diversions to nonpool plants accords equitable treatment to order handlers and also gives appropriate recognition to handlers in other regulated markets in the classification of milk transferred to a common nonpool plant. Giving highest use priority to dairy farmers directly supplying a nonpool plant recognizes that they are the regular and dependable source of supply of milk for fluid use at such plant. The proposed method of classification will safeguard the primary functions of the transfer provisions of the order by promoting orderly disposal of reserve supplies and in assuring that shipments to nonpool plants will be classified in an equitable manner.

Allocation of receipts to utilization.—Because the value of producer milk is based on its classification, the Lake Mead order must provide a procedure for assigning a handler's receipts from different sources to his utilization for the purpose of establishing such classification.

The system of allocating handlers' receipts to the various classes should be basically the same as that adopted in the decision issued June 19, 1964, for 76 milk orders integrating into each order's regulatory plan milk which is not subject to classified pricing under any order and receipts at pool plants from other order plants. Official notice was taken of that decision at the hearing (29 FR 9002). That decision provides a procedure for allocating over a handler's total utilization his receipts from all nonpool sources and for making payment into the producer-settlement fund on unregulated milk allocated to Class I.

Producers testified that the method developed for all Federal milk marketing orders as a result of the June 19, 1964, decision is appropriate in the Lake Mead marketing area and will coordinate these regulations with respect to the treatment of unregulated milk and other order milk with comparable regulations under other Federal orders.

The aforesaid decision sets forth the standards for dealing with unregulated milk under Federal orders and the system of allocation to be included in all orders. It describes the appropriate treatment of other order milk received at pool plants so as to coordinate the applicable regulations on all movements of milk between Federal order markets. This record indicates that the findings and conclusions of the aforesaid decision are equally applicable under current conditions in the proposed marketing area.

Cooperatives proposed that all other source milk (fluid and nonfluid) be allocated to Class III, regardless of how such

milk actually is used. Under this procedure, producers who are relied upon to furnish a regular supply of milk for the local fluid market receive the highest possible classification of their milk.

The Lake Mead order should provide that handlers using certain types of other source milk (whether in the form received or in reconstituted form) in the processing of Class II products be permitted to have such other source milk allocated directly to their Class II uses. Under the classification plan provided herein, such other source milk to which direct allocation could apply would be limited to milk products (such as nonfat dry milk and condensed milk or skim milk) that are not fluid milk products or fluid cream products.

As pointed out elsewhere in this decision, the establishment of an intermediate class is supported by the fact that handlers rely largely on producers for a regular supply of milk for the products herein included in Class II. The major use of other source milk in making these Class II products is the addition of nonfat dry milk to cream products, mainly half and half, and to skim milk being used for the manufacture of cottage cheese. On occasion, when producer supplies are short, handlers also may reconstitute nonfat dry milk for cottage cheese production. Condensed milk or skim milk may be similarly used. Handlers choosing to use such other source milk in this way should be permitted to have such milk allocated directly to their Class II utilization rather than allocated first to any Class III utilization they may have.

It is not intended that the Class II outlet for producer milk necessarily be reserved for local producers. This use class merely recognizes that some additional value attaches to producer milk used by regulated handlers in the Class II products. Pricing this milk at a level above the Class III price serves also to reduce the burden on the Class I price of attracting a supply of producer milk for the Class I market. It is not intended that producer returns be enhanced for the purpose of also attracting a full supply of producer milk for handlers' Class II uses. Accordingly, no obligation to the pool (commonly known as a compensatory payment) would be imposed on any other source milk which regulated handlers may use in Class II or on any Class II products that may be distributed in the market by nonpool plants, either directly on routes or through pool plants.

As long as the Class II price for producer milk remains in proper relationship with the cost of alternative supplies, it is not expected that this direct allocation of nonfluid other source milk to Class II will induce handlers to use other source milk in preference to producer milk for processing Class II products. Under the adopted Class II price, producers would represent in most circumstances the most economical source of milk for Class II use. As indicated elsewhere, this would be so with respect to the alternative use of nonfat dry milk, the type of other source milk most commonly used in the proposed Class II products. Nonfat dry milk has certain advantages for handlers that producer milk cannot provide. It can be added easily to milk or milk products to increase their nonfat milk solids content. Also, its storability permits handlers to have a concentrated form of nonfat milk solids on hand at all times for emergency use. Nevertheless, the higher cost of nonfat dry milk relative to producer milk would tend to limit its use to only those situations where the nonfat dry milk has a distinct processing advantage for handlers.

No provision should be made for the direct allocation of a handler's Class II utilization of other source milk received in fluid form. Unlike the handling of nonfat dry milk, it would not be unusual for a handler to commingle in his plant any receipts of fluid other source milk with his receipts of producer milk. In this circumstance, it would not be possible to know just how much of the other source milk may have been used in the processing of a Class II product. The difficulty which a handler would have in demonstrating that he actually used fluid other source milk in a Class II product, and the administrative difficulty in verifying such claimed use, warrants the allocation of such milk to Class III.

It should be noted that the order would provide for the specific allocation to a handler's Class II and Class III utilization of any receipts of bulk fluid milk products from an other order plant or an unregulated supply plant for which the handler requests a Class II or Class III classification. Such receipts would be allocated to the extent possible first to the handler's Class III utilization and then to his Class II utilization. This would be the case even if a Class II classification were requested by the handler.

The attached order provides that for purposes of allocating a multiple-plant handler's receipts to his utilization the operations at each of his pool plants shall be considered separately. In accordance with the "compensatory payment" decision referred to earlier, however, certain receipts of milk from unregulated supply plants and other Federal order plants are to share in varying degrees with local producer milk in the receiving handler's Class I utilization at all of his pool plants combined. The order therefore provides a procedure whereby the milk from unregulated supply plants and other order plants is classified on the basis of the handler's total system, but is assigned to classes at the pool plant of actual receipt. Under this procedure, the situation may arise where there is not enough utilization in a specific class at the plant of actual receipt to which such other source milk must be assigned (as determined from receipts and utilization of his entire system). In this case, an accounting technique is used for increasing the utilization in such class at the plant of actual receipt and making a corresponding reduction in the same class at one or more of his other pool plants in his system. This technique does not result, however, in changing the amount of milk to be accounted for at each plant, or the classification of milk within the handler's entire system.

Proponent cooperatives contended that receipts should be allocated to utilization on a product pound basis rather than on a skim milk and butterfat basis as provided under most other Federal milk orders. Producers stated that with a single butterfat differential applicable to all classes there is no need to allocate butterfat separately to the various classes. This decision provides a different value for butterfat used in Class I than for butterfat used in Class II or Class III. Therefore, the Lake Mead order must provide that the accounting be done on a skim milk and butterfat basis.

Classification of end-of-month inventory.—The Lake Mead order should provide for the classification of inventory on hand at the end of the month. Fluid milk products in either packaged or bulk form that are in a handler's end-of-month inventory should be classified as Class III milk. Ending inventory of fluid cream products, eggnog and yogurt, when held in bulk form, likewise should be classified in Class III. Such products held in packaged form at the end of the month should be classified as Class II milk.

Inventories classified in Class III should be subject in the following month to reclassification in a higher class, as determined through the allocation of a handler's receipts to his utilization. A charge to the handler at the difference between the Class III price for the preceding month and the Class I or Class II price, as applicable, for the current month would apply to any reclassified inventory.

Because of the regulatory treatment being accorded certain other source milk, it is necessary that fluid cream products, yogurt and eggnog on hand in packaged form at the end of the month be classified in Class II, the class of expected ultimate use, rather than in Class III as would be the case for ending inventories of such products in bulk form. The higher classification will accommodate the treatment adopted herein whereby such products that are received at a pool plant in packaged form and disposed of in the same packages would be permitted to "pass through" the plant without any pool obligation or down-allocation. In this connection, the ending Class II inventory, as Class II inventory on hand at the beginning of the next month, would be allocated in such month directly to the handler's Class II utilization.

For the first month the order is in effect, a slightly different classification of inventory must apply. Beginning inventories of fluid cream products in packaged form normally would be allocated directly to a handler's Class II utilization. Such allocation assumes that the products were priced at the Class II price in the preceding month. Since this would not be the case for the first month under the new order, such inventories should be allocated in the first month to the extent possible to Class III, as in the case of inventories of fluid milk products

and bulk fluid cream products. A reclassification charge should apply in the following month if a higher classification results.

(c) *Class prices.*—In order to promote and maintain orderly marketing conditions for the Lake Mead market, minimum class prices for producer milk must, under section 608c(18) of the act, be established at levels that reflect economic conditions affecting the market supply and demand for milk, and tend to maintain a supply of milk sufficient to meet the fluid needs of the market plus a reserve to provide for daily fluctuations in demand.

The Class I price must not be so high as to attract unneeded supplies to the market. If it were, it would tend to result in unnecessary surplus. On the other hand, the price should be sufficiently high to encourage the production of the quantity of high quality milk required for the fluid needs of the market plus an adequate reserve.

The Class II price should be high enough above the manufacturing price to compensate producers for at least a part of the cost of delivering sufficient Grade A milk to meet the needs of handlers for cream, cottage cheese, and related items for which Grade A milk is used.

The Class III price must be fixed at a level that will insure a market for milk produced in excess of the Class I and Class II requirements of the market, but high enough to discourage association with the pool of additional Grade A milk simply for use in manufactured dairy products.

Class prices, as well as uniform prices to producers, should be computed and announced on a 3.5 percent butterfat content basis. This will conform to prevailing practice in the market.

Class I price.—For an 18-month period beginning with the effective date of the order, the Class I price should be computed each month by adding $1.60 to the basic formula price (Minnesota-Wisconsin manufacturing milk price for the second preceding month). For the purpose of computing Class I prices, however, the basic formula price should be not less than $4.33. This will insure that the present basic formula price (floor price) in other Federal order markets will be the same in this market.

The price for milk used for fluid purposes in the marketing area has a direct relationship to the price paid for milk used for manufacturing purposes. The basic formula price used in determining the price for Class I milk gives appropriate consideration to the economic factors underlying the general level of prices for milk and manufactured dairy products. The differential over manufacturing milk prices is necessary to cover the added cost of meeting quality requirements in the production of milk for fluid uses and the cost of moving it to the market. Dairy farmers must have incentive, over the price of milk for manufacturing uses, to produce and deliver an adequate supply of quality milk to meet the market's demand for milk in fluid form.

Proponent cooperatives proposed the Minnesota-Wisconsin manufacturing milk price as the basic formula price. This price is an average of prices paid at a large number of manufacturing plants in the two States. Plant operators report the total pounds of manufacturing grade milk received from dairy farmers, the total butterfat content, and the total dollars paid to dairy farmers for such milk, f.o.b. plant. These prices are reported on a current month basis and the Minnesota-Wisconsin price is announced for each month on or before the fifth day of the following month. The Minnesota-Wisconsin price is the basic formula price in all other Federal order markets also, including the Central Arizona and Great Basin markets which are the nearest federally regulated markets to the Lake Mead area.

This price for raw milk delivered by farmers is determined by competitive conditions and reflects general economic conditions affecting the supply and demand of milk for manufactured milk products marketed through a highly coordinated marketing system, which is national in scale.

As previously stated, the basic formula price would be the Minnesota-Wisconsin pay price for the month second preceding that to which the Class I price applies. On the fifth day of each month, the market administrator would announce publicly the Class I price for the following month. This procedure is now used in Federal orders generally.

Producer proponents proposed the formula adopted. At the time of the hearing (October 1972) this would have yielded a Class I price of $6.67 per hundredweight for milk containing 3.5 percent butterfat content and for April 1973 a Class I price of $7.05. This compares with a Class I price of $6.48 established by the Nevada Dairy Commission for milk (of 3.5 percent butterfat content) produced in Nevada and used as Class I milk in the southern Nevada (Las Vegas) market in October 1972. Official notice is taken that the latter price is still in effect.

Proponents contended that their proposed Class I price is necessary to reflect supply and demand conditions for milk in the Lake Mead area and to assure the market of a sufficient supply of pure and wholesome milk.

Local conditions of supply and demand for fluid milk in southern Nevada, a principal segment of the designated marketing area, are affected by the fact that the Nevada Dairy Commission, which regulates the handling of Nevada milk in the southern Nevada area, is unable to price out of State supplies. While a major concern of such regulation is to maintain orderly marketing conditions for fluid milk distributed in the southern Nevada (Las Vegas) market, the jurisdiction of the Commission does not reach to supplies from other States.

During 1970, about 83 million pounds of milk were used in the southern Nevada market. Only 65 percent of this was accounted for by Nevada production. For 1971, about 63 percent of the milk supply for the Las Vegas area was furnished by Nevada dairy farmers. Nevada producers supplied 54.9 million pounds of milk to the market in 1970, and 52.5 million pounds in 1971. Additional supplies for the market have come primarily from Utah producers, who, along with Nevada producers, pointed to unsatisfactory prices and the absence of an overall plan for distributing returns to all producers as the basis for this proceeding.

The market is a relatively "tight" market in terms of supply in relation to the need for fluid milk. For 1971, 89 percent of the milk under the jurisdiction of the Nevada Dairy Commission in this market was used in fluid milk products (Class I). Utah milk in the market was said to have been paid for on an 80–20 basis, with 80 percent of the milk supplied being used in Class I. On this basis, overall market Class I utilization in 1971 was about 86 percent of the total receipts of producer milk. The remaining 14 percent that was used in Class II and Class III represented the reserve supply for the market, most of which is used for cottage cheese and ice cream.

For purposes of insuring an adequate supply to the Lake Mead market, the Class I price applicable at Los Angeles, Calif., is relevant. The main alternative supply area for the Lake Mead market is situated between Los Angeles and Las Vegas. Much of the milk supply produced there is assembled in the Bakersfield, Calif., area, and can move readily either to Los Angeles or Las Vegas as the relative prices dictate.

A hearing was held by the State of California authorities in Sacramento, Calif., on January 3, 1973. Following that hearing the California minimum price for the Southern Metropolitan area (Los Angeles) was set, effective February 1, 1973, at $6.77 per hundredweight for Class I milk testing 3.5 percent butterfat. Official notice of that hearing and decision is taken at this time because such price affects the value of milk produced in the Bakersfield area, which is significant to consideration of the price needed in the Lake Mead market to insure an adequate supply.

The Los Angeles Class I price applicable at Bakersfield is $6.57 ($6.77 minus $0.20). Bakersfield is 286 miles from Las Vegas. At a hauling rate of 1.5 cents per 10 miles (equivalent to the location adjustment discussed elsewhere herein) it would cost about 43 cents to transport milk to Las Vegas from the Bakersfield area. For April 1973, the Lake Mead Class I price adjusted for the Bakersfield location would be $6.62 ($7.05 minus $0.43), only 5 cents more than the Los Angeles price for that location. Thus, if production of local producers falls short, the Lake Mead market still will be in a position to obtain alternative supplies without greatly increased cost.

The Class I price level currently provided for the southern Nevada market, and the lack of uniform application of prices to all handlers in the market have resulted in unrest among both Nevada producers and Utah producers who initiated this proceeding. Continuance of the

present price situation, particularly in the face of the recent California Class I price increase, would not provide assurance of an adequate supply for the Lake Mead market. It is concluded that the Class I price level provided herein is needed to insure an adequate supply of milk for fluid use in the Lake Mead area.

Producers' proposal would limit the Lake Mead Class I price to not more than $7.22 per hundredweight during the first 18 months the order is effective. Such limit was intended to reflect the Los Angeles Class I price plus a hauling allowance to the Las Vegas area. As previously stated, the Class I price formula provided herein would have resulted in a price of $7.05 for Class I milk for April, or 17 cents under the limit proposed by producers. However, the Lake Mead Class I price differential will be effective only for the first 18 months in which the order is fully effective. It is appropriate that the Class I price structure be reexamined at a public hearing for possible adjustment after the accumulation of data relative to milk supplies and sales. Accordingly, a "ceiling" on the Class I price is not required. In any event, if an earlier reconsideration of the price level is deemed appropriate, a hearing is the proper forum. Therefore, the proposal for the proposed ceiling price is denied.

Class III price.—The Class III price should be the basic formula price for the month, as proposed by producer proponents.

As proposed by proponents, and as stated earlier in this decision, the Lake Mead order should provide two classes of utilization for milk not needed for Class I purposes. Before discussing the pricing of milk in the intermediate class (Class II), consideration will be given to the Class III price because the level of such price bears on the appropriate Class II price level.

Reserve milk disposed of in manufactured product uses should be priced at a level to result in orderly disposition of all excess supplies, but yet to maximize returns to producers from the values obtained in manufactured product disposition. Establishment of a price too high to clear the market of milk excess to fluid requirements would interfere with the orderly marketing of milk and encourage the use of other, more distant sources of milk, instead of producer supplies. Fixing a price too low would encourage handlers to associate additional supplies with the market simply to obtain low cost milk for manufacturing uses.

It is the returns from all classes of milk that provide farmers the incentive to produce the needed milk supplies. Consequently, to the extent that the price for reserve milk in the market contributes less than its full market value to producers' returns, the other class prices must be higher than otherwise necessary to make up the difference. Accordingly, it is appropriate that the reserve milk supplies be priced at the highest practicable level consistent with the orderly disposal of the milk.

The Minnesota-Wisconsin price meets the aforesaid conditions for pricing Class III milk. It is an average of prices being paid farmers by processors of butter, nonfat dry milk, and cheese who are meeting the competitive test of the unregulated marketplace. Use of the Minnesota-Wisconsin pay price series not only maintains a reasonably consistent basis of pricing surplus milk among the federally regulated market, but also achieves price parity between regulated and unregulated plants engaged in a similar enterprise since it provides the regulated manufacturer essentially the same margin for processing as is experienced in the unregulated market. Such price is widely used as a surplus price determinant under many Federal milk orders, such as the Great Basin market, which is located in this general region.

At the hearing, the witness for proponent cooperatives stated that the Class III price, like the Class I price, should be established as an interim price, for the first 18 months the order is effective. Proponents contended that an 18-month trial period is necessary because a decision on pricing surplus milk under 40 Federal milk marketing orders is pending.

Since the Class III price proposed herein will reflect the value of milk being disposed of for manufacturing in open competitive markets, there is no purpose to be served in adopting the limit proposed by proponents. Should the need arise to reconsider a different basis for pricing Class III milk, hearing procedure is the appropriate forum for this purpose.

The Lake Mead market is characterized by a relatively high Class I utilization. It is anticipated that Class III utilization may be very minor, and concentrated in ice cream and cheese manufacturing. Both of these products yield relatively high returns compared to butter and nonfat dry milk.

Class III disposition for the market that is used in hard cheese will probably be manufactured at a cheese plant at Beaver, Utah. Cheese produced at this location is sold in competition with cheese produced in other sections of the country. Ice cream is manufactured in some of the Las Vegas plants that would be pool plants. The Class III price should reflect the value of milk for these higher-valued dispositions.

Under the regulations of the Nevada Dairy Commission, the February 1973 price applicable to milk used in Class III in the southern Nevada marketing area was $4.86. During the same month, milk used to manufacture cheese, butter, and nonfat dry milk was priced at $5.25, and milk used in ice cream was $5.85, in the Los Angeles market. Also, manufactured products, such as hard cheese priced on the basis of the Minnesota-Wisconsin price ($5.45 for February) under the Great Basin order, compete in this general region. Thus, the value of milk used in competing manufactured products is considerably higher than the price established for such uses in the Las Vegas area. It is concluded that the higher price provided herein will assure that producers supplying the Lake Mead market will receive the full value of their milk when utilized in Class III.

Class II price.—The price for Class II milk should be the basic formula price for the month, plus 15 cents. During 1972, this price would have averaged $5.23. The Class II price provided herein, which was proposed by proponents, will obtain for producers some extra return for producer milk used in Class II products above its value in other manufactured dairy products.

A principal outlet for Class II milk in the Lake Mead market is cottage cheese, which is frequently produced in conjunction with fluid milk packaging operations. The producers supply Grade A milk for use in cottage cheese in the southern Nevada market perform a service by delivering such high quality milk to handlers' plants on a regular and continuing basis as required by the handlers. On such basis, there is some additional value for milk supplied to handlers for use in cottage cheese at distributing pool plants. Such value should be reflected in returns to producers.

The Class II price provided herein is not at such level, however, that will induce handlers to substitute alternative supplies for producer milk in this outlet. If producer milk for cottage cheese use were not available, the cost of procuring equivalent milk ingredients from outside sources would be higher than if obtained from local producers. Milk used to produce cottage cheese is priced in Class II under the California State regulation. The price applicable to such milk in the Los Angeles market for February 1973 was $5.38. This compares with a price of $5.60 that would have been applicable to such milk under the Lake Mead order.

Location adjustments.—The order should provide for location adjustments. Such adjustments are the amounts by which the Class I price and the uniform price for milk are reduced for milk received at plants located some distance from the major consumption center of the market.

As provided herein, no location adjustment would apply to plants situated within 40 miles of the Clark County Courthouse in Las Vegas. A location adjustment based on 1.5 cents per 10 miles or fraction thereof would apply on milk received at plants located more than 40 miles from such courthouse. The applicable distance for determining location adjustments would be measured by the shortest hard-surfaced highway, as determined by the market administrator.

Producer proponents proposed the location adjustment provisions provided herein, except that their proposal called for a location adjustment of −10c/cwt for any plant located more than 40 miles but not more than 50 miles from such courthouse.

Provision for location adjustments is an integral part of pricing milk under Federal milk orders. The adjustments recognize differences in the economic value of milk for fluid processing in the market when it is received at distant

plants and then shipped to plants at the market center as compared to being originally received from farmers at the latter plants.

While St. George and Cedar City are included within the defined marketing area, Las Vegas is the major market center for milk processing and distribution. The former localities are at distances of 125 and 176 miles from Las Vegas. The great bulk of the urban population in the Lake Mead marketing area is located within a radius of 40 miles of the Clark County (Nev.) Courthouse.

Fluid milk, being bulky and perishable, incurs a relatively high transportation cost. When milk for this market is received from the farm at a plant located a considerable distance from Las Vegas, the handler rather than the producer incurs the additional cost of moving that milk from the outlying plant to Las Vegas, where most of the supply is processed. Under these conditions, and in the absence of a higher-priced alternative market for the producer, the economic value of producer milk delivered to a plant located at a distance from Las Vegas is reduced in proportion to the distance therefrom and the cost of transporting such milk from the plant of first receipt to the plant at the market center. Location adjustments also reflect the lesser value (place utility) of the producer's milk when it is diverted from the farm to an outlying plant for manufacture in lieu of being brought to the market center.

Location adjustments assist further in carrying out the statutory requirement of uniformity in prices to all handlers since, by their application, all handlers purchase their Class I milk at the same minimum price f.o.b. the market center. The handler buying in this manner thus owns his milk under the order at the same minimum Class I price f.o.b. market as the handler receiving milk from an outlying plant. Since location adjustments apply only to plant locations, no adjustment is applicable when the milk is received directly from the farm at the processing plant at the market center. The transportation, or hauling, cost to the market on the latter milk is paid for by the individual producer.

Adjustments to the producer blend price are made at the same rate as are the adjustments to the price for Class I milk. This provides an equitable means of distributing among producers the proceeds from the sale of their milk delivered to plants located at varying distances since, to be eligible for Class I (fluid) use in the market, the milk must be transported in fluid form whether moved at the expense of the handler or producer.

In the Lake Mead market, location adjustments would apply to existing plants at Logandale, Nev.; and St. George, and Cedar City, Utah. The specific adjustments would approximate —9 cents, —19.5 cents and —27 cents, respectively, at these locations. Although these plants are distributing plants, location adjustments would apply to such plants as well as to supply plants. The value of the milk is determined by the location of the plant rather than by the type of plant.

Producers proposed that a location adjustment of —10 cents apply at locations over 40 miles but not more than 50 miles from the Clark County Courthouse. There are no substantial grounds for which to adopt a 40–50-mile zone with a 10-cent adjustment. Also, it is not apparent that any plant would be situated in the zone if it were provided. All location adjustments would be computed on a mileage basis from the courthouse basing point. A rate of 1.5 cents per 10 miles is appropriate to reflect the cost of hauling milk efficiently in bulk tank lots. It is recognized as a representative rate for transporting milk and is the rate most applicable in Federal orders throughout the United States. Except as referred to above (40–50-mile zone), no other rate was proposed.

Proponents proposed that in applying location adjustments, the applicable Lake Mead Class I and uniform prices should not be reduced so as to result in lower prices for milk received at any California plant than that provided by the California Bureau of Milk Stabilization. However, the Class I price provided herein adjusted for location is deemed to be appropriate for insuring an adequate supply of milk for this market without causing unnecessary disruption to supplies for other markets. The rate of location adjustment is reasonable for the efficient transportation of milk in bulk form. It would not be appropriate therefore to limit the application of the adjustment as proposed by proponent. The proposal, therefore, is denied.

To insure that milk will not be moved unnecessarily at producer's expense, the order should contain a provision to limit the quantity of milk transferred between plants that may be eligible for the location adjustment credit. It is therefore provided that, for the purpose of calculating location credit, fluid milk products received from another pool plant shall be assigned to any Class I milk at the transferee plant that is in excess of the sum of producer milk receipts at such plant, receipts from other order plants, and receipts from unregulated supply plants, that are assigned to Class I. Such assignments would be made first to receipts from plants at which no location adjustment is applicable and then in sequence beginning with receipts from the plant with the lowest location adjustment. This sequential assignment of milk will tend to discourage the unnecessary movement of milk between pool plants for other than Class I purposes at the expense of producers, and will provide an equitable basis for facilitating the movement of milk between pool plants for Class I purposes.

Butterfat differential.—The Class I butterfat differential (for each one-tenth of 1 percent butterfat) should be 0.120 times the wholesale selling price per pound (using the midpoint of any price range as one price) of Grade A (92 score) bulk butter at Chicago, as reported by the Department during the preceding month and rounded to the nearest 10th of a cent, and the Class II and Class III differentials should both be 0.115 times such butter price for the current month.

Based on the February 92-score Chicago butter price, the March 1973 Class I butterfat differential (at 0.120 times the Chicago butter price) would have been 8.1 cents and the butterfat differential for Class II and Class III milk (at 0.115 times such butter price) would have been 7.8 cents.

Proponent cooperatives proposed a single butterfat differential at 0.125 times the Chicago Grade A (92 score) butter price. A witness for proponent cooperatives testified that the present Class I butterfat differential under the regulations of the Nevada Dairy Commission (10 cents for each one-tenth of 1 percent butterfat) should not be adopted in view of the declining consumer acceptance of butterfat in the marketplace.

In recent years in the southern Nevada market the proportion of solids-not-fat in most of the fluid milk products (in Class I) has increased, and the proportion of butterfat has decreased. This has been evidenced by increasing sales of low-fat milk items while sales of whole milk generally have been declining. During the fourth quarter of 1969 the average butterfat content of milk used in Class I in the southern Nevada marketing area, as reported by the State authorities, averaged 3.48 percent compared with 3.37 percent for the same quarter of 1970, and 3.13 percent for the fourth quarter of 1971. During 1970, the average butterfat content of milk used in the southern Nevada market was 3.35 percent. The market's average butterfat percentage for milk used in Class I dropped in 1971 to 3.22 percent.

This is in line with the national trend toward a declining proportion of butterfat in Class I sales, as reflected by Federal order marketing areas. In 1966 the average butterfat test in Federal order markets for Class I milk was 3.5 percent.[1] This percentage has declined from year to year since, and in 1971 the comparable average butterfat test was 3.21 percent, or a decline of 9 percent from 1966 to 1971.

The Class I butterfat differential provided herein, at 0.120 rather than 0.125 times the butter price, is appropriate to improve the competitive position of butterfat in the marketplace. Considering the limited manufacturing facilities in the Lake Mead market, it will provide handlers an incentive to maintain or perhaps, even increase, the butterfat content of their bottled milk products, as an alternative to locating a surplus outlet for such butterfat.

At present, under the regulations of the Nevada Dairy Commission, the Class II and Class III butterfat differential for the southern Nevada marketing area are determined by multiplying the 92-score Chicago butter price by 0.115. Hence, the

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

butterfat differentials for Class II and Class III milk provided herein will be the same as those now prevailing for pricing much of the butterfat used in such classes in the southern Nevada market. The butterfat differentials for Class II and Class III milk provided herein will place the same value on butterfat in these two nonfluid classes as is placed on butterfat used in the surplus class under the Great Basin order.

In exceptions, the proponent cooperative associations requested that the butterfat differential for all price classes be determined by multiplying the 92-score Chicago butter price times 0.120. In their view, the use of a single butterfat differential would serve to simplify the classification provisions and the accounting for milk by all parties involved. While convenience is an appropriate consideration, nevertheless it is outweighed by the considerations indicated above. Further, it is anticipated that the Lake Mead market will have a relatively high proportion of the milk supply utilized in Class I. Consequently, it may be expected that the fat content variation from 3.5 percent for most of the milk will be priced at the level of the Chicago 92-score butter price times 0.120. For this reason, the exception is denied.

The price a producer receives for butterfat must be closely related to the value of butterfat in the marketplace. This is determined by what handlers can return from the sale of products made from this component of milk. The butterfat differential used in making payments to producers should be computed at the average of the return actually received from the sale of butterfat in producer milk. The rate to be used for this purpose would be the average Class I, Class II, and Class III butterfat differentials weighted by the proportion of butterfat in producer milk classified in each class. Thus, producer returns for butterfat will reflect the average value of their butterfat in the use-classes provided herein. This weighted average method is currently used to pay producers for the butterfat in their milk deliveries in the southern Nevada market.

Use of equivalent prices.—If for any reason a price or pricing constituent needed by the market administrator in administering the order is not available as prescribed by the order, the market administrator is authorized herein to use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required. Including such provision in the order will leave no uncertainty with respect to the procedure to be followed in the absence of any price or pricing constituent customarily used and thereby will prevent interruption in the operation of the order.

(d) *Distribution of the proceeds to producers.*—Marketwide pooling of producer returns should be provided in the order as the means of distributing among producers the proceeds from the sale of their milk. Such pooling method will assure each producer supplying the market a proportionate share of the market's total Class I sales.

The facilities in the various plants in the area for handling producer milk in excess of that needed for Class I purposes vary considerably. While a number of plants in the market are primarily Class I operations and handle little or no surplus milk, others utilize varying proportions of their supplies for Class II items or for manufacturing purposes. Under these conditions, a marketwide pool will facilitate the marketing of producer milk since the type of facilities at the plant will not be a determining factor in the price the plant can pay its producers compared to other plants.

A marketwide pool also will make it possible for producer associations to divert any weekly or seasonal reserves of milk and still keep producers on the market who are needed to fulfill the year-round requirements of the market. It will assist further in apportioning among all producers the lower returns from reserve milk manufactured when otherwise this burden would vary by individual groups of producers.

A marketwide pool thereby will contribute to market stability and the maintenance of an adequate and dependable supply of producer milk at reasonable prices.

Producer-settlement fund.—The market administrator should maintain a producer-settlement fund in which are deposited all moneys paid by handlers in accordance with order terms for milk received, and out of which are paid all moneys due producers and cooperative associations for their milk.

The producer-settlement fund is the mechanism for carrying out the provisions requiring payments to producers on a uniform basis. It is the temporary depository for moneys paid for milk by the handler each month and the source of funds distributed by the market administrator to producers and cooperatives in payment for their milk at the minimum uniform price.

The unobligated balance in the fund is cleared each month except for a small working reserve held for efficient operation of the fund. This is necessary to provide for such contingencies as making payment to a handler from the fund by reason of an audit adjustment. The reserve, which would be operated as a revolving fund and adjusted each month, is established in the attached order at not less than 4 nor more than 5c/cwt of producer milk in the pool for the month.

Any payments received by the market administrator from any partially regulated handler would be deposited in the producer-settlement fund as well as payments made by fully regulated handlers. Money thus deposited would be included in the uniform price computation and thereby be distributed to producers.

Payments to producers and cooperative associations.—Payments to producers and cooperative associations at the minimum uniform price for milk deliveries should be made by the market administrator.

This plan of payment was proposed by producers and no objections were raised at the hearing or in briefs.

Under the pooling and payment plan adopted herein, each handler would be required to make a partial payment to the market administrator (producer-settlement fund) for producer milk received during the first 15 days of the month at a rate per hundredweight equal to the Class III price for the preceding month. Such payment would be due by the 25th day of the same month. The market administrator, in turn, would distribute these partial payments by the last day of the same month to producers who do not receive their payments through a cooperative association.

Provision should be made for a cooperative association to receive payment for producers' milk it causes to be delivered to a pool plant or diverted. Receiving payment for milk marketed, with the opportunity to reblend proceeds where the sale of members' milk is involved, will promote orderly marketing and will assist a cooperative in discharging its responsibilities to members and to the market.

The statute provides that cooperatives may receive moneys for milk marketed by them to handlers and permits the reblending among members of the returns from their milk. Membership contracts normally authorize a cooperative to collect for member producer deliveries. Therefore, the market administrator, if requested by an authorized cooperative, would pay it an amount equal to the sum of the individual payments otherwise payable to the producers for whom it markets.

Payments to a cooperative association on milk marketed through it would be made by the market administrator 2 days earlier, thus enabling producers who market through a cooperative to receive payment on the same day that other producers receive their payment.

Final payment by the handler to the market administrator for all producer milk received during the month would be required by the 14th of the following month. Final payments for the month would be made by the market administrator to cooperatives by the 17th day of the month following the month of delivery, and to the individual producers who do not receive their payments through a cooperative, by the 19th of the following month.

The various dates proposed herein for making final payments for producer milk will result in producers receiving the returns from their milk deliveries as soon as feasible after the submission of handler reports and the computation of the uniform price. Reports of receipts and utilization for the previous month, essential to the uniform price computation, would be required of handlers by the seventh day of the month. The market administrator would be required to announce the uniform price by the 12th day of the month. These particular dates are reasonably spaced to provide time after the end of the month for handlers to prepare and submit their reports, for the market

administrator to process such reports and compute the uniform price, and for the collection of payments from handlers based on billings issued by the market administrator.

Handlers' final monthly payments to the market administrator would be subject, of course, to any proper deductions authorized in writing by the individual producer. For example, it is not unusual for the producer to make legitimate purchases of supplies and materials through his handler for which he has an obligation to pay. Hauling also is a regular service to the producer, reimbursement for which is properly deductible from payments due the producer, whether performed by the handler or by common carrier. Allowable deductions normally would be made by the handler from his pool obligation and would be taken into account by the market administrator in making payments from the producer-settlement fund on a uniform basis to producers and cooperative associations.

A particular problem concerning the propriety of hauling deductions from producer payments was raised at the hearing.

A producer spokesman testified that 70 c/cwt has been deducted from his milk check for the past several years for the haul of his milk to a Las Vegas plant located about 126 miles from his farm. The producer testified that he considered such rate, assessed by the handler purchasing his milk, to be excessive, but has acquiesced to it because under the arrangement he has with the handler the handler's purchase of his milk is dependent upon the condition that the handler will perform the hauling services.

While the propriety of the rate testified to is not demonstrated on the record, a basic question is raised by the producer, i.e., whether any hauling deduction from a producer's payment that is not clearly in the nature of reasonable reimbursement for services performed on behalf of the producer in connection with the production or delivery of his milk jeopardizes the integrity of the minimum uniform price plan, an essential feature of a regulation that is designed to provide orderly marketing conditions for producers by establishing minimum uniform prices for their milk.

A handler may not be allowed, of course, either directly or through any affiliate or subsidiary, to gain a competitive advantage over other handlers by circumventing the minimum price provisions of the order. To refer again to the testimony of hauling rates, a handler could gain such an advantage by having the producer authorize on the handler's behalf a hauling rate in excess of what is a reasonable rate under the prevailing conditions. Otherwise, the possibility would exist that the handler not only could avoid the full class price obligation placed on him by the regulatory program, but also could deprive producers of the minimum uniform price they are guaranteed by the program. Such an arrangement tends also to discourage competitive hauling practices for the market.

Failure to prevent a circumvention of the minimum price provisions could result in continuation of one of the conditions that led to this hearing proceeding, i.e., payment by handlers of different prices for milk received from producers with competitive advantage in milk procurement cost for some handlers, with some producers bearing the brunt of prices not fully reflective of the value of their milk delivered to plants serving this market. The integrity of the minimum price provisions of the order could be jeopardized and statutory objectives defeated. Any deduction that thwarts the statutory goals obviously would not be properly made.

It is not inconceivable that a handler attempting to gain a pricing advantage could arrange with his producers to rebate to him from such producer's uniform price payment, moneys in excess of reasonable value for the service or the actual deductions therefor. Such subterfuge would have the identical effect of an excessive hauling deduction per se and should be treated as such by the market administrator.

Since the order specifically provides for appropriate hauling deductions when properly authorized by the producer, it is reasonable to presume that the handler's acceptance of a rebate from the producer would have as its purpose the hiding of the true nature of the transaction involved. Any such transaction not disclosed by the handler's reports or records should be considered as an attempt to violate the order.

It is well established that not less than the minimum uniform price required by the order must be paid to producers, and that any device that results in the producers receiving less than such uniform price is unlawful, even if authorized or acquiesced in by the producer. Thus, a producer may not waive his right to receive the minimum uniform price established by the order by making it possible for a handler to recover in any form any part of the minimum price payment due the producer. To allow such a waiver of the minimum price requirements of the order by the producer in favor of the handler would be as destructive to the purposes of the act as an unreasonable charge by the handler in consideration of the service performed by him for the producer.

It is appropriate, therefore, to assure individual producers of equitable charges for hauling service arranged or performed by the handler on the producer's behalf, to provide that: (1) The handler shall substantiate in advance, to the satisfaction of the market administrator, that the charge assessed a producer is appropriate under the conditions existing with respect to the particular load of milk and other conditions relative to the hauling of milk for the market, and (2) the handler shall give notice, simultaneously to all producers to be affected thereby, and in advance of the effective date, of any change in the hauling charge.

Each such charge, of course, must be authorized in writing by the individual producer. Prevailing charges for hauling and changes therein shall be publicly announced by the market administrator.

The record discloses the possibility that the amount of the hauling charge may be influenced by other arrangements between the handler and the producer for the sale of the producer's milk. For this reason the order should provide further that the arrangement under which the handler hauls milk for the producer shall be independent of other terms of sale for such milk.

The general provisions of the Lake Mead order provide for the maintenance of records by each handler relevant to order transactions and obligations involving the handler under the order. To carry out the above requirements with respect to hauling reimbursement to handlers from producer payments, it is provided further that any handler, whether directly or through an affiliate or subsidiary, engaged in hauling producer milk in the Lake Mead market shall retain, or be responsible for making available from such affiliate or subsidiary, for examination by the market administrator at his request, certain records with respect to such milk movements as specified in the order.

Two other proposals dealing with possible problems concerning deductions for hauling were before the hearing. One would provide for maximum rates that could be charged producers for hauling their milk from farm to plant. A spokesman for producers suggested, however, that if such method were adopted, the market administrator should be authorized to develop the rates through formal rulemaking procedure rather than by incorporation of a specific schedule of maximum rates in the order.

The second proposal would limit hauling deductions to an amount not exceeding prevailing rates charged by a common carrier engaged in the same class of service.

The evidence in the hearing record provides inadequate basis for adoption of the latter proposals, which were presented by proponents as possible alternatives to their original proposal (§ 1139.80 of their proposed order) concerning proper deductions authorized by producers.

(e) *Administrative provisions.—Charges on overdue accounts.*—The Lake Mead order should provide a rate of three-fourths of 1 percent per month on any unpaid obligation due the market administrator for deposit in the producer-settlement fund.

Proponent cooperatives proposed a rate of 1 percent per month. A witness for proponent testified that such a charge on overdue accounts is needed to encourage prompt payment.

A charge on overdue accounts should be provided in the Lake Mead order to encourage prompt payment of handler obligations. It is essential that all handler payments to the producer-settlement fund be made promptly in order that the market administrator will be able to

make the required payments to producers. Handlers who pay late are, in effect, borrowing money from producers through the producer-settlement fund. Money borrowed is worth a reasonable rate of interest. However, the charge applied to overdue accounts is not a substitute for prompt payment as required by the order.

Proponent cited varying interest rates associated with credit transactions in the Las Vegas area. Consumer credit accounts generally charge at the rate of 1½ percent per month (18 percent on an annual basis). Area banks charge their prime customers at the rate of about 7.5 percent annually. When they are made, such loans are secured. However, bank loans at the prime rate are not general. Accordingly, the rate charged on overdue accounts under the order that are already past due and are not secured should be somewhat higher than the prime rate.

There should be no opportunity for a handler to achieve financial advantage by delaying payments of obligations to the market administrator. Accordingly, the Lake Mead order should provide a carrying charge on overdue obligations of fully regulated handlers to the market administrator for deposit into the producer-settlement fund, including any adjustment resulting from audit by the market administrator of a handler's receipts and utilization. The charge should apply also to the overdue obligations (to the producer-settlement fund) of partially regulated handlers, including audit adjustments. The rate provided herein at three-fourths of 1 percent is reasonable in view of rates generally prevailing in the region and will tend to preclude such situations from occurring.

Marketing services.—Provisions should be made in the order for furnishing marketing services to producers, such as verifying the tests and weights of producer milk and furnishing market information. These services should be provided by the market administrator and the cost should be borne by producers for whom the services are rendered. Any cooperative association, if approved for such activity by the Secretary, may perform such services for its producers and if it is doing so, the service will not be furnished to such producers by the market administrator. The act specifically authorizes marketing services provisions of the nature provided herein.

There is a need for a marketing service program in connection with the administration of a Federal milk order for the Lake Mead area. The weighing and testing of the milk of all producers is closely related to the main provisions of the order, which are the classification and pricing provisions. The latter provisions are the basis of the computation of the minimum uniform price payable to producers.

The Lake Mead order, like other Federal milk orders, would contain provisions requiring all regulated handlers to submit to the market administrator each month a report showing the total quantity of skim milk and butterfat received from producers, and his utilization of such skim milk and butterfat in the three price classifications provided. From such report the market administrator computes the handler's pool obligation by multiplying the quantity of milk in each use class by the applicable class price. The uniform price is derived by totaling the obligation of all regulated handlers and dividing the sum by the total quantity of milk delivered by all producers. This is the price payable to each producer subject only to adjustments for the butterfat test of the individual producer's milk and for the location of the plant to which his milk was delivered.

To verify that a handler has reported his receipts and disposition correctly and to insure that each producer receives proper payment for his deliveries, the market administrator audits each handler's operation. The quantity of skim milk and butterfat received by a handler must balance, of course, with the quantities of skim milk and butterfat in the products processed and disposed by him. This requires the availability of the weight and butterfat test of each producer's deliveries. The provisions provided herein for weighing and testing provide the further guarantee to all producers that each of them is properly paid on the basis of a check of an impartial agency, and that one producer is not receiving a part of his payment at the expense of other producers through inaccurate weights or test. It is not apparent from the testimony provided that any agency is now regularly verifying the weights and tests of producer milk.

Milk produced on a handler's own farm should be exempt from marketing service deductions, even though it is subject to other provisions of the order. There are no payments to other persons on such milk. Hence, there is no need to provide the same marketing services as are provided other producers.

The other service provided, that of furnishing market information, is designed to keep the producer informed of developments that might affect his price or market outlet in order that he may better evaluate his marketing situation and that of producers generally. The objective of the program is to aid producers to achieve and maintain orderly marketing conditions for their milk.

In the case of producers who market their milk through a cooperative association, the act authorizes such cooperative to perform these marketing services, and the costs of these services normally are borne by such producers through membership dues.

Proponent cooperative associations proposed that 12c/cwt be provided in the order as a marketing services deduction. However, no specific testimony was introduced to show that the 12-cent rate is needed.

It is concluded that in the absence of such information, a rate of 7c/cwt should be provided. This represents the maximum rate established in any Federal order, regardless of market size. It is anticipated that such maximum rate will cover the costs that are likely to be incurred by the market administrator in providing the services specified for the 10 percent of the producers supplying the market who will receive the services by this means. If experience indicates that marketing services can be performed at a lesser rate, provision is made whereby the Secretary may adjust the rate downward without the necessity of a hearing.

Expense of administration.—Each handler should be required to pay to the market administrator, as his proportionate share of the cost of administering the order, 4¢/cwt, or such lesser amount as the Secretary may prescribe, on producer milk (including milk of such handler's own production) and on other source milk allocated to Class I (except milk so assessed under another Federal order).

The market administrator must have sufficient funds to enable him to administer properly the terms of the order. The act provides that such cost of administration shall be financed through an assessment on handlers. A principal function of the market administrator is to verify the receipts and disposition of milk from all sources. Equity in sharing the cost of administration of the order among handlers will be achieved, therefore, by applying the administrative assessment on the basis of milk received from dairy farmers and on other source milk allocated to class I milk.

The proposed order provides that a cooperative shall be the handler on milk it delivers in tank trucks from the farms to pool plants of other handlers. The cooperative is the handler on such milk basically for the purpose of making payments to its individual producers. For all accounting purposes, however, the milk would be considered as producer milk at the plant of the receiving handler. It therefore would be treated the same as any other direct receipts from producers.

The market administrator must verify by audit the receipts and utilization at pool plants, whether the plant operator buys his milk directly from producers or through a cooperative as a bulk tank handler. It is appropriate, therefore, that the pool plant operator receiving such milk pay the administrative assessment on it on the same basis that he pays such assessment for all other producer milk received at his plant. No plant of the cooperative is involved in this particular circumstance. The cooperative, therefore would be liable only for the administrative assessment on any amount by which the farm weights of the producer milk exceed the aggregate weight on which the plant operator purchases the milk from the cooperative.

The order specifies minimum performance standards that must be met to obtain regulated status. The operator of a plant not meeting such standards (i.e., a partially regulated distributing plant) is required to either (1) make specified payments (discussed elsewhere in this decision) into the producer-settlement fund on route disposition in the marketing area in excess of offsetting purchases of

Federal order Class I milk, or (2) otherwise pay into such fund and/or to dairy farmers an amount not less than the classified use value of his receipts from dairy farmers computed as though such plant were a fully regulated plant.

The market administrator, in administering an order as it applies to such nonpool route distributor, must incur expenses in essentially the same manner as in applying the order to pool handlers. However, the order is not applicable to such distributor to the same extent as to regulated handlers. Hence, payment of the administrative assessment on his in-area sales would reasonably constitute his pro rata share of the administrative expense.

In the case of unregulated milk that enters the market through a regulated plant for Class I use, it is the regulated handler who utilizes the unregulated milk and who must report to the market administrator the receipt and use of such milk. Also, the receipts and utilization of all milk at his plant are subject to verification by the market administrator. Hence, it is appropriate that the regulated handler be responsible for payment of the administrative assessment on such unregulated milk.

The order is designed so that the cost of administration is shared equitably among handlers distributing milk in the proposed marketing area. However, to prevent duplication, an assessment should not be made on other source milk on which an assessment was made under another Federal order.

Provision should be made so that the Secretary may reduce the amount of the administrative assessment without the necessity of amending the order. The rate can thus be reduced when experience indicates a lower rate will be sufficient to provide adequate funds for the administration of the order.

General provisions.—The Lake Mead order proposed herein incorporates, by reference, certain terms, definitions, and administrative provisions that are included in part 1000. The provisions are common to all Federal milk orders, having been so adopted effective July 1, 1971 (36 FR 9844).

The first section (§ 1000.1) states that the uniform provisions included in part 1000 shall be a part of each Federal milk marketing order as if set forth in full in each order, except in any order where any such provision is expressly defined or modified otherwise.

The second section (§ 1000.2) includes definitions of five general terms used in all Federal milk orders: Act, Order, Department, Secretary, and Person.

The third section (§ 1000.3) deals with the designation, powers, and duties of the market administrator.

The fourth section (§ 1000.4) pertains to the continuity and separability of provisions in an individual order. For the most part these are internal administrative rules and instructions to Department employees regarding procedures involved in the suspension, termination, or liquidation of any or all provisions of a Federal milk order.

The fifth section (§ 1000.5) describes a handler's responsibility with respect to records and facilities.

The final section (§ 1000.6) relates to the termination of obligations.

The standard provisions of part 1000 have the same intent and purpose in each Federal milk order, and they have worked effectively since the adoption of part 1000 in July 1971 for all Federal orders. Adopting part 1000 by reference for the Lake Mead order will promote uniform application of these provisions, which have the same intent and purpose in all orders.

A detailed discussion of the need and basis for incorporating the general provisions in each order is contained in a decision issued by the Assistant Secretary on April 15, 1971 (36 FR 7514). The findings and conclusions thereof are made a part hereof by reference as the basis for adopting the same provisions in the Lake Mead order.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

(a) The proposed marketing agreement and order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The proposed marketing agreement and order will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

(d) All milk and milk products handled by handlers, as defined in the proposed marketing agreement and order are in the current of interestate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(e) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 c/cwt or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1139.85 of the aforesaid proposed marketing agreement and the order.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an order regulating the handling of milk in the Lake Mead 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 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 regulating the handling of milk in the Lake Mead marketing area is approved or favored by producers, as defined under the terms of the order, 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 H. Alan Luke.

Signed at Washington, D.C., on June 1, 1973.

Clayton Yeutter,
Assistant Secretary.

Order [1] Regulating the Handling of Milk in the Lake Mead Marketing Area.

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[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.

FINDINGS AND DETERMINATIONS

(a) *Findings.*—A public hearing was held upon a proposed tentative marketing agreement and order regulating the handling of milk in the Lake Mead 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, pt. 900.)

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order 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 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 regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined in the order, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4c/cwt or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1139.85.

Order relative to handling.—It is therefore ordered that on and after the effective date hereof the handling of milk in the Lake Mead marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as follows:

The provisions of the proposed marketing agreement and order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on April 24, 1973, and published in the FEDERAL REGISTER on May 3, 1973 (38 FR 11024), shall be and are the terms and provisions of this order, and set forth in full herein subject to modifications in §§ 1139.2, 1139.10, 1139.12, and 1139.73.

PART 1139—MILK IN LAKE MEAD MARKETING AREA

Subpart—Order Regulating Handling

GENERAL PROVISIONS

Sec.

DEFINITIONS

HANDLER REPORTS

CLASSIFICATION OF MILK

CLASS PRICES

UNIFORM PRICE

PAYMENTS FOR MILK

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

GENERAL PROVISIONS

§ 1139.1 General provisions.

The terms, definitions, and provisions in part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1139.2 Lake Mead marketing area.

"Lake Mead marketing area," hereinafter called the "marketing area," means:

(a) All territory geographically within the following incorporated and unincorporated places in Clark County, Nev.:

In Henderson Township: Henderson City.
In Las Vegas Township:
- East Las Vegas.
- Las Vegas City.
- Paradise.
- Sunrise Manor (part).
- Vegas Creek.
- Winchester.

In Nelson Township: Boulder City.
In North Las Vegas Township:
- Nellis.
- North Las Vegas City.
- Sunrise Manor (part).

(b) All territory geographically within Cedar City in Iron County, Utah, and St. George in Washington County, Utah, and

(c) All territory geographically within the boundaries listed in paragraphs (a) and (b) of this section, and in Clark County, Nev., that is occupied by governmental (municipal, county, State, or Federal) reservations, installations, institutions, or other establishments. Where such an establishment is partly within and partly without such territory, the entire establishment shall be included in the marketing area.

§ 1139.3 Route disposition.

"Route disposition" means any delivery of a fluid milk product classified as Class I milk from a plant to a retail or wholesale outlet (including any delivery through a distribution point, by a vendor, from a plant store or through a vending machine) except a delivery to another plant.

§ 1139.4 [Reserved]

§ 1139.5 Distributing plant.

"Distributing plant" means a plant in which milk approved by a duly constituted regulatory agency for fluid consumption, or filled milk, is processed or packaged and from which there is route disposition in the marketing area during the month.

§ 1139.6 Supply plant.

"Supply plant" means a plant from which a fluid milk product acceptable to a duly constituted regulatory agency for fluid consumption, or filled milk, is transferred during the month to a pool distributing plant.

§ 1139.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant that during the month has:

(1) Route disposition, except filled milk, representing not less than 50 percent of its total receipts of Grade A fluid milk products (including milk diverted from such plant to a nonpool plant pursuant to § 1139.13); and

(2) Route disposition, except filled milk, in the marketing area representing not less than 10 percent of such receipts.

(b) A supply plant from which during the month not less than 50 percent of its Grade A milk receipts from dairy farmers (including milk diverted from such plant to a nonpool plant pursuant to § 1139.13) is transferred to a pool distributing plant pursuant to paragraph (a) of this section as fluid milk products, except filled milk. Any supply plant that has qualified as a pool plant in each of the immediately preceding months of August through February shall be a pool plant in each of the following months of March through July unless written request for nonpool status for any such month is filed by the plant operator with the market administrator prior to the first day of any such month. A plant withdrawn from supply pool plant status may not be reinstated for any subsequent month of the March-through-July period unless it fulfills the transferring requirement of this paragraph for such month.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A distributing plant qualified pursuant to paragraph (a) of this section that also meets the pool plant requirements of another Federal order and from which, the Secretary determines, a greater quantity of Class I milk, except filled milk, was disposed of as route disposition during the month in such other Federal marketing area than was disposed of as route disposition in this marketing area, except if such plant was subject to all the provisions of this order in the immediately preceding month, it shall continue to be subject to all the provisions of this order until the third consecutive month in which a greater proportion of its Class I route disposition, except filled milk, is made in such other marketing area unless, notwithstanding the provisions of this subparagraph, it is regulated under such other order;

(3) A distributing plant qualified pursuant to paragraph (a) of this section that also meets the pool plant requirements of another Federal order on the basis of route disposition in such other marketing area, and from which, the Secretary determines, a greater quantity of Class I milk, except filled milk, is disposed of during the month as route disposition in this marketing area than is disposed of in such other marketing area but which plant is, nevertheless, fully regulated under such other Federal order;

(4) A supply plant qualified pursuant to paragraph (b) of this section that also meets the pool plant requirements of another Federal order and from which greater qualifying transfers are made during the month to plants regulated under such other order than are made to plants regulated under this order, except during the months of March through July if the transfers to the other order plant are for surplus disposition and the operator of the supply plant elects to retain automatic pooling under this part; or

(5) A distributing plant from which less than an average of 300 pounds of Class I milk per day, except filled milk, is disposed of in the marketing area during the month.

§ 1139.8 Nonpool plant.

"Nonpool plant" means any milk, or filled milk, receiving, manufacturing, or processing plant other than a pool plant. This definition shall include, but not be limited to, the following categories of plants:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a distributing plant that does not qualify as a pool plant and is not an other order plant, a producer-handler plant, or an exempt distributing plant.

(d) "Unregulated supply plant" means a supply plant that does not qualify as a pool supply plant and is not an other order plant, a producer-handler plant, or an exempt distributing plant.

(e) "Exempt distributing plant" means a distributing plant defined in § 1139.7(c)(5).

§ 1139.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to milk of its producers that is diverted pursuant to § 1139.13 for the account of the cooperative association;

(c) Any cooperative association with respect to milk of its producers that is received at the farm for delivery to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) Any person defined as a producer-handler;

(f) Any person in his capacity as the operator of an other order plant described in § 1139.7(c);

(g) Any person in his capacity as the operator of an unregulated supply plant; and

(h) Any person in his capacity as the operator of an exempt distributing plant.

§ 1139.10 Producer-handler.

"Producer-handler" means any person who:

(a) Operates a dairy farm and a distributing plant;

(b) Receives fluid milk products only from:

(1) His own dairy farm production; and

(2) Pool plants or other order plants (by transfer) in an amount that is not in excess of the lesser of 5 percent of his Class I utilization during the month or 5,000 pounds;

(c) Does not reprocess or convert milk products into fluid milk products except to increase the nonfat milk solids content above that of the fluid milk products received only by the addition of nonfat dry milk; and

(d) Provides proof satisfactory to the market administrator that:

(1) The care and management of the dairy animals and other resources necessary to produce the entire amount of milk handled (other than that received from regulated plants) is the personal enterprise of and at the personal risk of such person; and

(2) The management and operation of such distributing plant is the personal enterprise of and at the personal risk of such person.

§ 1139.11 [Reserved]

§ 1139.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person:

(1) Who produces milk in compliance with the Grade A milk inspection requirements of a duly constituted regulatory agency; and

(2) Whose milk is received at a pool plant or diverted from a pool plant to a nonpool plant that is not a producer-handler plant within the limits set forth in § 1139.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1139.44(a)(8)(iii) and the corresponding step of § 1139.44(b);

(3) Any person with respect to milk produced by him that was diverted from a pool plant to an other order plant where some of it was allocated to Class I utilization, or the other order designates such person as a producer under such order; and

(4) Any person whose milk is received during the month at a nonpool plant except by diversion from a pool plant to an ungraded manufacturing plant, or, subject to the provisions of paragraph (b)(3) of this section, diverted to a pool plant of another order for surplus disposition.

§ 1139.13 Producer milk.

"Producer milk" means the skim milk and butterfat in milk of a producer which is:

(a) With respect to a handler described in § 1139.9(a):

(1) Received at his pool plant directly from the producer;

(2) Received at his pool plant from a handler described in § 1139.9(c); or

(3) Diverted for his account from his pool plant to a nonpool plant that is not a producer-handler plant, subject to the conditions set forth in paragraph (d) of this section;

(b) With respect to a handler described in § 1139.9(b), diverted for such handler's account from a pool plant to a nonpool plant that is not a producer-handler plant, subject to the conditions set forth in paragraph (d) of this section;

(c) With respect to a handler described in § 1139.9(c), received by the handler from the producer's farm in excess of the producer's milk that is received at pool plants pursuant to paragraph (a)(2) of this section. Such producer milk of the handler shall be deemed to have been received by the handler at the location of the pool plant to which the milk was delivered.

(d) The following conditions shall apply to milk of a producer diverted from a pool plant to a nonpool plant that is not a producer-handler plant:

(1) Such milk shall be priced at the location of the nonpool plant to which the milk is diverted.

(2) A cooperative association may divert for its account the milk of any producer (other than producer milk diverted pursuant to paragraph (d)(3) of this section) from whom at least 20 percent of his milk production is received during the month at a pool plant. The total quantity of milk so diverted may not exceed 30 percent in the months of March through July and 20 percent in other months of the producer milk which the association causes to be delivered to pool plants during the month.

(3) The operator of a pool plant (other than a cooperative association) may divert for his account the milk of any producer (other than producer milk diverted pursuant to paragraph (d)(2) of this section) from whom at least 6 of this section) from whom at least 20 percent of his milk production is received during the month at the pool plant. The total quantity of milk so divert may not exceed 30 percent in the months of March through July and 20 percent in other months of the milk received at such pool plant from producers and for which the operator of such plant is the handler during the month. The milk for which the operator of such plant is the handler during the month shall not duplicate milk diverted pursuant to paragraph (d)(2) of this section;

(4) Diversions in excess of such percentages shall not be producer milk, and the diverting handler shall designate the dairy farmers whose milk is not producer milk. If the handler fails to make such designation, no milk diverted by him shall be producer milk.

§ 1139.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk fluid cream products from any source other than producers, handlers described in § 1139.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1139.40(b)(1);

(c) Products (other than fluid milk products and products specified in § 1139.40(b)(1)) from any source (including those products produced at the plant) which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1139.40(b)(1)) for which the handler fails to establish a disposition.

§ 1139.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1139.40(b) or (c)(1) (i) through (viii) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1139.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1139.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1139.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the cooperative association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk for its members; and

(c) To have its entire activities under the control of its members.

Handler Reports

§ 1139.30 Reports of receipts and utilization.

On or before the seventh day after the end of the month, each handler shall report to the market administrator, in the detail and on the forms prescribed by the market administrator, the following information for such month:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers descrbied in § 1139.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1139.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1139.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1139.31 Payroll reports.

(a) On or before the eighth day after the end of each month, each handler described in § 1139.9 (a), (b), and (c) shall report to the market administrator, in the detail prescribed by the market administrator, the following information showing for each producer for such month:

(1) His name and address;
(2) The number of days on which milk was received from such producer;
(3) The total pounds of milk received from such producer;
(4) The average butterfat content of such milk;
(5) In the case of cooperative associations, the identity of producers for whom the cooperative association is authorized to collect payment pursuant to § 1139.73;
(6) The amount and nature of any deductions authorized in writing by the producer to be made from payments due such producer for milk delivered.

(b) On or before the 21st day of each month, each handler described in § 1139.9 (a), (b), and (c) shall report to the market administrator, in detail and on forms prescribed by him, the name and address of each producer from whom milk was received during the first 15 days of such month, and the total pounds of milk so received during said period from such producer.

(c) Each handler operating a partially regulated distributing plant who elects to make payments pursuant to § 1139.76 (b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1139.32 Other reports.

In addition to the reports required pursuant to §§ 1139.30 and 1139.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1139.40 Classes of utilization.

Except as provided in § 1139.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1139.30 shall be classified as follows:

(a) Class I milk.—Except as provided in paragraph (c) of this section, Class I milk shall be all skim milk and butterfat:
(1) Disposed of in the form of a fluid milk product; and
(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.*—Except as provided in paragraph (c) of this section, Class II milk shall be all skim milk and butterfat:
(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, or any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt. Any product specified in this subparagraph that is modified by the addition of nonfat milk solids shall be Class II milk in an amount equal only to the weight of an equal volume of an unmodified product of the same nature and butterfat content;
(2) In packaged inventory at the end of the month of the products specified in paragraph (b) (1) of this section; and
(3) Used to produce cottage cheese, lowfat cottage cheese, and dry curd cottage cheese.

(c) *Class III milk.*—Class III milk shall be all skim milk and butterfat:
(1) Used to produce:
(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);
(ii) Butter, plastic cream, frozen cream, and anhydrous milkfat;
(iii) Any milk product in dry form;
(iv) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;
(v) Custards, puddings, and pancake mixes;
(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers;
(vii) Evaporated or condensed milk (plain or sweetened) in a consumer-type package, evaporated or condensed skim milk (plain or sweetened) in a consumer-type package, and any concentrated milk product in bulk, fluid form;
(viii) Any product containing 6 percent or more nonmilk fat (or oil) except those products specified in paragraph (b) (1) of this section; and
(ix) Any product that is not a fluid milk product and that is not specified in paragraphs (b) or (c) (1) (i) through (viii) of this section;
(2) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages;
(3) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b) (1) of this section in bulk form;
(4) In fluid milk products and products specified in paragraph (b) of this section that are disposed of by a handler for animal feed;
(5) In fluid milk products and products specified in paragraph (b) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;
(6) In skim milk in any modified fluid milk product or modified product specified in paragraph (b) (1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition or classified as Class II milk, as the case may be; and
(7) In shrinkage assigned pursuant to § 1139.41(a) to the receipts specified in § 1139.41(a)(2) and in shrinkage specified in § 1139.41 (b) and (c).

§ 1139.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1139.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:
(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and
(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (b) (1) of such section that is not in excess of:
(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1139.9(c));
(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1139.9(c), except that, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and the butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;
(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;
(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;
(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;
(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and
(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1139.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on

the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1139.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.*—Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computation pursuant to § 1139.44(a)(12) and the corresponding step of § 1139.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1139.44(a)(7) or the corresponding step of § 1139.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1139.44(a)(11) or (12) or the corresponding steps of § 1139.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.*—Skim milk or butterfat transferred or diverted in the form of a fluid milk product or transferred in the form of a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustments when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1139.40.

(c) *Transfers to producer-handlers and transfers and diversions to exempt distributing plants.*—Skim milk or butterfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to an exempt distributing plant shall be classified:

(1) As Class I milk, if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.*—Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant, or an exempt distributing plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or transferred in the form of a bulk fluid cream product, unless the following conditions apply:

(i) If the transferor-handler or divertor-handler so requests and the conditions described in paragraph (d)(2)(i)(*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1139.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1139.43 General classification rules.

In determining the classification of producer milk pursuant to § 1139.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1139.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1139.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1139.40, 1139.41, and 1139.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1139.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1139.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1139.9(a) for each of his pool plants separately and of each handler described in § 1139.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1139.41 (b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a) (7) (vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1139.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds remaining in Class II;

(5) Except for the first month that a pool plant is subject to this subparagraph, subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1139.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1139.40(c)(6)), any product specified in § 1139.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and packaged inventory at the beginning of the month of products specified in § 1139.40(b)(1) that were not subtracted pursuant to paragraph (a) (4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from an exempt distributing plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section;

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant; and

(vii) Receipts of milk from a dairy farmer pursuant to § 1139.12 (b) (4);

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III;

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2) and (7) (v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2), (7) (v), and (8) (i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a) (8) (ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1139.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a) (7) (vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7) (vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the

pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1139.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section;

(i) Subject to the provisions of paragraph (a)(12)(ii) and (iii) of this section; such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1139.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to either paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract in the following order from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1139.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1139.44(a)(14) and the corresponding step of § 1139.44(b).

§ 1139.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1139.44(a)(12) and the corresponding step of § 1139.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1139.44 on the basis of such report, and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to another order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association that so requests the amount and class utilization of producer milk delivered by members of such cooperative association to each handler receiving such milk. For the purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

Class Prices

§ 1139.50 Class prices.

Subject to the provisions of §§ 1139.52 and 1139.55, the class prices for the month per hundredweight of milk shall be as follows:

(a) *Class I price.*—For the first 18 months this order is effective, the Class I price shall be the basic formula price for the second preceding month plus $1.60.

(b) *Class II price.*—The Class II price shall be the basic formula price for the month plus 15 cents.

(c) *Class III price.*—The Class III price shall be the basic formula price for the month.

§ 1139.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1139.52 Plant location adjustments for handlers.

(a) For producer milk received at a plant located more than 40 miles, by shortest hard-surfaced highway distance, as determined by the market administrator, from the county courthouse in Las Vegas, Nev., and classified as Class I milk, subject to the limitation set forth in paragraph (b) of this section, the Class I price specified in §-1139.50(a) shall be reduced at the rate of 1.5 cents for each 10 miles or fraction thereof that such plant is located from such courthouse.

(b) For the purpose of calculating location adjustments, receipts of fluid milk products from pool plants shall be assigned any remainder of Class I milk at the transferee-plant that is in excess of the sum of producer milk receipts at such plant and that assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment shall be made first to receipts from plants at which no location adjustment is applicable pursuant to this section and then in sequence beginning with receipts from the plant with the lowest applicable location adjustment.

(c) The Class I price applicable to other source milk shall be adjusted at the rate set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1139.53 Announcement of class prices and handler butterfat differentials.

The market administrator shall announce publicly on or before the fifth day of each month:

(a) The Class I price for the following month;

(b) The Class I butterfat differential for the current month; and

(c) The Class II and Class III prices and the corresponding butterfat differentials, all for the preceding month.

§ 1139.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

§ 1139.55 Handler butterfat differentials.

For milk containing more or less than 3.5 percent butterfat, the class prices calculated pursuant to § 1139.50 shall be increased or decreased, respectively, for each one-tenth of 1 percent of butterfat by the appropriate rate, rounded to the nearest one-tenth cent, determined as follows:

(a) *Class I milk.*—Multiply the butter price specified in § 1139.51 for the preceding month by 0.120.

(b) *Class II and Class III milk.*—Multiply the butter price specified in § 1139.51 for the month by 0.115.

UNIFORM PRICE

§ 1139.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1139.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1139.44 by the applicable class prices (adjusted pursuant to §§ 1139.52 and 1139.55) and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1139.44(a)(14) and the corresponding step of § 1139.44(b) by the applicable class prices;

(c) Add the amounts computed pursuant to paragraph (c) (1) and (2) of this section:

(1) Multiply the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1139.44(a)(9) and the corresponding step of § 1139.44(b);

(2) Multiply the difference between the Class III price for the preceding month and the Class II price for the current month by the hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1139.44(a)(9) and the corresponding step of § 1139.44(b);

(d) Add the amount obtained by multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1139.44(a)(7) (i) through (iv) and (vii) and the corresponding step of § 1139.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained by multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1139.44(a)(7) (v) and (vi) and the corresponding step of § 1139.44(b); and

(f) Add the amount obtained by multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1139.44(a)(11) and the corresponding step of § 1139.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

§ 1139.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1139.60 for all handlers who filed reports prescribed by § 1139.30 for the month and who made the payments pursuant to § 1139.71 for the preceding month;

(b) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1139.74 and multiplying the result by the total hundredweight of such milk;

(c) Add an amount equal to the total value of the location adjustments computed pursuant to § 1139.75;

(d) Add an amount equal to not less than one-half the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1139.60(f); and

(f) Subtract not less than 4 cents nor more than 5 c/cwt. The result shall be the "uniform price."

§ 1139.62 Announcement of uniform price and producer butterfat differential.

On or before the 12th day after the end of each month the market administrator shall announce publicly the uniform price and producer butterfat differential for such month.

PAYMENTS FOR MILK

§ 1139.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit the appropriate payments made by handlers pursuant to §§ 1139.71, 1139.76, and 1139.77, and out of which he shall make the appropriate payments pursuant to §§ 1139.73 and 1139.77. Payments due to a person from the fund shall be offset by payments due to the fund from such person.

§ 1139.71 Payments to the producer-settlement fund.

(a) On or before the 25th day of the month, each handler shall pay to the market administrator for deposit into the producer-settlement fund an amount

determined by multiplying the hundredweight of producer milk received by him during the first 15 days of such month by the Class III price for the preceding month.

(b) On or before the 14th day after the end of the month, each handler shall pay the market administrator an amount equal to his net pool obligation computed pursuant to § 1139.60, less:

(1) Payments made pursuant to paragraph (a) of this section for such month;

(2) An amount computed by multiplying the uniform price applicable at the location of plants from which other source milk is received by the hundredweight of other source milk for which a value is computed pursuant to § 1139.60 (f); and

(3) Proper deductions, charges, or other reimbursement in favor of the handler authorized in writing by producers from whom such handler received milk:

(c) On or before the 25th day after the end of the month, each handler operating a plant subject to the classification and pricing provisions of another order which provides for individual-handler pooling, shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (c)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1139.72 [Reserved]

§ 1139.73 Payments to producers and to cooperative associations.

(a) On or before the last day of each month, the market administrator shall make payment, subject to paragraph (c) of this section, to each producer for milk received from such producer during the first 15 days of such month by handlers from whom the appropriate payments have been received pursuant to § 1139.71(a) at not less than the Class III price per hundredweight for the preceding month;

(b) On or before the 19th day after the end of each month, the market administrator shall make payment, subject to paragraph (c) of this section, to each producer for milk received from such producer during the month by handlers from whom the appropriate payments have been received pursuant to § 1139.71(b) at the uniform price per hundredweight as adjusted pursuant to §§ 1139.74 and 1139.75, less:

(1) Payments made pursuant to paragraph (a) of this section for such month;

(2) Deductions for marketing services pursuant to § 1139.86;

(3) Other proper deductions (as to purpose and amount) authorized by such producer in writing. As the basis for deductions or other reimbursement to handlers for hauling milk of producers, each handler shall file in advance with the market administrator, in the manner prescribed by him, his rates or charges for hauling and shall substantiate to the satisfaction of the market administrator that the amount to be assessed each producer therefor is reasonable under the hauling conditions existing for the particular load and other conditions relative to the hauling of milk for the market. The handler then shall obtain, in advance of its effective date, on forms provided by the market administrator, written authorization from each producer for the charge. Such procedure shall apply also in the case of any proposed change in hauling charge by the handler. No contractual arrangement between a handler and a producer for supplying milk to the handler shall be contingent on the hauling of such milk by the handler or his affiliate or subsidiary. Prevailing hauling charges and changes therein shall be publicly announced by the market administrator.

(4) For purposes of paragraph (b)(3) of this section, each handler who owns or operates, either directly or through an affiliate or subsidiary person (including interlocking officers or directors), any mobile vehicle used during the month for transporting producer milk en route from the farm of any producer to a pool plant or to a nonpool plant, or from the plant of any cooperative association to the plant of a handler, including his own plant, shall keep, or be responsible for making available from any such affiliate or subsidiary, for examination by the market administrator at his request, records that shall show:

(i) The date, time, source, and quantity of each load of such milk transported by any mobile vehicle so owned or operated by such handler, affiliate, or subsidiary together with the date, time, and quantity of all such milk delivered from such vehicle, and the location and identification of the milk plant or other facility to which delivery or disposition was made; and

(ii) The amount of any charge, and of any and all money or other reimbursement in any manner received by such handler, affiliate, or subsidiary from the producer in connection with the hauling of each such load of milk.

(5) Adjustments in calculating payments to such individual producer for the past months;

(c) In making payments to producers pursuant to paragraphs (a) and (b) of this section, the market administrator shall pay on or before the second day prior to the date specified in such paragraph to each cooperative association for all producers who market their milk through the cooperative association and who are certified to the market administrator by the cooperative association as having authorized the cooperative association to receive such payment an amount equal to the sum of the individual payments otherwise payable to such producers pursuant to paragraphs (a) and (b) of this section;

(d) If the market administrator does not receive the full payment required of a handler pursuant to § 1139.71, he shall reduce uniformly per hundredweight his payments to producers for milk received by such handler by a total amount not in excess of the amount due from such handler. The market administrator shall complete the payments to producers on or before the next date for making final payments pursuant to this section following the date on which the remaining payment is received from such handler; and

(e) If the unobligated balance in the producer-settlement fund is insufficient to make all payments pursuant to this section except those payments due producers as described in paragraph (d) of this section, the market administrator shall reduce uniformly per hundredweight his payments to producers and shall complete such payments on or before the next date for making payments pursuant to this section following the date on which the funds become available.

§ 1139.74 Producer butterfat differential.

The uniform price for producer milk shall be increased or decreased for each one-tenth percent that the butterfat content of the milk is above or below 3.5 percent, respectively, at the rate determined as follows:

(a) Compute the percentage of the total butterfat in producer milk assigned to each class pursuant to § 1139.44;

(b) Multiply each such percentage by the butterfat differential for the respective class pursuant to § 1139.55; and

(c) Add into one total the values obtained in paragraph (b) of this section, rounding the result to the nearest one-tenth cent.

§ 1139.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be adjusted according to the location of the pool plant at the rates set forth in § 1139.52, and the uniform price for producer milk diverted to a nonpool plant shall be adjusted according to the location of such nonpool plant at the rates set forth in § 1139.52.

(b) In computing obligations applicable to other source milk, the uniform price shall be adjusted at the rate set forth in § 1139.52 applicable at the location of the nonpool plant from which the other source milk was received, except that the adjusted price shall not be less than the Class III price.

§ 1139.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1139.30(b) and 1139.31(c) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1139.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1139.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant § 1139.60 for such handler shall include, in lieu of the value of other source milk specified in § 1139.60(f) less the value of such other source milk specified in § 1139.71(b)(2), a value of milk determined pursuant to § 1139.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1139.7(b), subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1139.30(b) and 1139.31(c) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1139.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1139.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts or other verification discloses errors resulting in money due the market administrator from such handler or due such handler from the market administrator, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which such error occurred.

§ 1139.78 Charges on overdue accounts.

Any unpaid obligation pursuant to §§ 1139.71, 1139.76, and 1139.77 shall be increased three-fourths of 1 percent each month beginning with the third day following the date such obligation was payable under the order. Any remaining amount due shall be increased at the same rate on the corresponding day of each month thereafter until paid. The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, and shall include any unpaid charges previously made pursuant to this section. For the purpose of this action any obligation that was determined at a date later than prescribed by the order because of a handler's failure to submit a report to the market administrator when due, shall be considered to have been payable by the date it would have been due if the report had been filed when due.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1139.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 14th day after the end of

the month 4c/cwt or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1139.44(a) (7) and (11) and the corresponding steps of § 1139.44(b), except such other source milk that is excluded from the computations pursuant to § 1139.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1139.76(a)(2).

§ 1139.86 Deduction for marketing services.

(a) The market administrator, in making payments to each producer pursuant to § 1139.73, shall deduct 7c/cwt, or such lesser amount as the Secretary may prescribe, with respect to the milk (except a handler's own farm production) of such producer for whom the marketing services set forth in paragraph (b) of this section are not being performed by a cooperative association as determined by the Secretary.

(b) The moneys deducted pursuant to paragraph (a) of this section shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. Such services shall be performed by the market administrator or by an agent engaged by and responsible to him.

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ENVIRONMENTAL PROTECTION AGENCY

■

PRIOR NOTICE OF CITIZEN SUITS

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER D—WATER PROGRAMS

PART 135—PRIOR NOTICE OF CITIZEN SUITS

On March 14, 1973 (38 FR 6907), the Administrator of the Environmental Protection Agency proposed the addition of a new part 135 to subchapter D, chapter 1, title 40, Code of Federal Regulations, establishing procedures for giving notice of civil actions by citizens pursuant to section 505 of the Federal Water Pollution Control Act Amendments of 1972 (sec. 2, Public Law 92-500; 86 Stat. 888 (33 U.S.C. 1365)) (hereinafter, "the Act"). Public comments on the proposed rule were received and reviewed. Due consideration has been given to these comments and, as a result, two changes have been made in the rules as proposed.

(1) Section 135.1, as proposed, has been revised to incorporate the definition of "citizen" as provided in section 505(g) of the act. This definition was added by the Conference Committee to reflect the decision of the United States Supreme Court in the case of *Sierra Club* v. *Morton*, 405 U.S. 727 (1972).

(2) Section 135.2(a)(1) has been redrafted to clarify the requirements for service of notice upon individuals and corporations.

Certain public comments called for additional changes, but these suggestions were not incorporated into the final regulation. They include the following:

(1) Several letters were received calling for amendment to § 135.2(a) (2) and (3) to require service of a copy of notice upon persons claimed to be in violation of a standard, limitation, or order. The contention was made that in cases where a State or Federal agency is alleged to be in violation of some standard, limitation, or order, notice should also go, where appropriate, to any other persons whose discharge of pollutants is causing such agency to be in violation. This proposal was not adopted for the reason that such contingency has already been provided for. Where, for example, an agency having jurisdiction over a person who is causing a violation of a standard, limitation, or order, is notified pursuant to § 135.2(a) (2) or (3), such person would have to be notified pursuant to § 135.2(a)(1) before any civil action could be commenced against him. Notice would have to go to such person to the extent he is an indispensable party to any subsequent action.

(2) Several comments called for amendment of § 135.2(a)(2) to require copies of the notice to be mailed to the attorney general of the State, the district attorney or other local prosecutor of the district in which the violation occurred, and the local water pollution control agency. These proposals were not adopted because it was considered unduly burdensome to require the citizen to effect service upon so many parties as a condition precedent to filing suit. These regulations provide minimum requirements for service and in no way prevent a citizen from serving as many additional parties as he may deem appropriate. The choice as to whether additional parties should be brought into the matter properly rests with the citizen subject to the requirements of Fed. R. Civ. P. 19.

(3) As an alternative to requiring the citizen to serve any and all persons having an interest, one comment suggested that section 135(b) be amended to require the Administrator "within 10 days after service of notice * * * [to] mail a copy of such notice to those persons whose facilities may be directly affected by litigation arising therefrom." This alternative was rejected as unduly burdensome upon the Administrator. The determination of whether or not a party is indispensable to an action brought by a citizen should be made by the court, not by the Administrator.

(4) Several of the comments asked that the regulations require the citizen to state in the notice the interests which he claimed to be adversely affected. One comment went so far as to ask that the citizen be required to state in his notice a summary of the evidence to be relied upon and the names and addresses of witnesses to be called in support of the citizen's claim, and that he be required to post a bond adequate to cover the direct costs to the owner or operator arising out of a complaint that was later found to be without merit. These suggestions were rejected as being unduly burdensome upon the citizen.

Accordingly, the regulations containing procedures for giving prior notice of citizen suits are hereby promulgated, effective 30 days after promulgation.

A new part 135 is added to subchapter D, chapter 1, title 40, Code of Federal Regulations, as follows:

Sec.
135.1 Purpose.
135.2 Service of notices.
135.3 Contents of notice.

AUTHORITY.—Sec. 505, Federal Water Pollution Control Act Amendments of 1972 (sec. 2, Public Law 92-500; 86 Stat. 888 (33 U.S.C. 1365).)

§ 135.1 Purpose.

Section 505 of the Federal Water Pollution Control Act Amendments of 1972 (hereinafter the Act) authorizes any person or persons having an interest which is or may be adversely affected to commence a civil action on his own behalf to enforce the Act or to enforce certain requirements promulgated pursuant to the Act. The purpose of this part is to prescribe procedures governing the giving of notice required by subsection 505(b) of the Act as a prerequisite to the commencement of such actions.

§ 135.2 Service of notice.

(a) Notice of intent to file suit pursuant to section 505(a)(1) of the Act shall be served upon an alleged violator of an effluent standard or limitation under the Act, or an order issued by the Administrator or a State with respect to such a standard or limitation, in the following manner:

(1) If the alleged violator is an individual or corporation, service of notice shall be accomplished by certified mail addressed to, or by personal service upon, the owner or managing agent of the building, plant, installation, vessel, facility, or activity alleged to be in violation. A copy of the notice shall be mailed to the Administrator of the Environmental Protection Agency, the Regional Administrator of the Environmental Protection Agency for the region in which such violation is alleged to have occurred, and the chief administrative officer of the water pollution control agency for the State in which the violation is alleged to have occurred. If the alleged violator is a corporation, a copy of such notice also shall be mailed to the registered agent, if any, of such corporation in the State in which such violation is alleged to have occurred.

(2) If the alleged violator is a State or local agency, service of notice shall be accomplished by certified mail addressed to, or by personal service upon, the head of such agency. A copy of such notice shall be mailed to the chief administrative officer of the water pollution control agency for the State in which the violation is alleged to have occurred, the Administrator of the Environmental Protection Agency, and the Regional Administrator of the Environmental Protection Agency for the region in which such violation is alleged to have occurred.

(3) If the alleged violator is a Federal agency, service of notice shall be accomplished by certified mail addressed to, or by personal service upon, the head of such agency. A copy of such notice shall be mailed to the Administrator of the Environmental Protection Agency, the Regional Administrator of the Environmental Protection Agency for the region in which such violation is alleged to have occurred, the Attorney General of the United States, and the chief administrative officer of the water pollution control agency for the State in which the violation is alleged to have occurred.

(b) Service of notice of intent to file suit pursuant to section 505(a)(2) of the Act shall be accomplished by certified mail addressed to, or by personal service upon, the Administrator, Environmental Protection Agency, Washington, D.C. 20460. A copy of such notice shall be mailed to the Attorney General of the United States.

(c) Notice given in accordance with the provisions of this part shall be deemed to have been served on the postmark date if mailed, or on the date of receipt if served personally.

§ 135.3 Contents of notice.

(a) *Violation of standard, limitation or order.*—Notice regarding an alleged violation of an effluent standard or limitation or of an order with respect thereto, shall include sufficient information to permit the recipient to identify the specific standard, limitation, or order alleged to have been violated, the activity alleged to constitute a violation, the person or persons responsible for the alleged violation, the location of the alleged violation,

the date or dates of such violation, and the full name, address, and telephone number of the person giving notice.

(b) *Failure to act.*—Notice regarding an alleged failure of the Administrator to perform any act or duty under the Act which is not discretionary with the Administrator shall identify the provision of the Act which requires such act or creates such duty, shall describe with reasonable specificity the action taken or not taken by the Administrator which is alleged to constitute a failure to perform such act or duty, and shall state the full name, address and telephone number of the person giving the notice.

(c) *Identification of counsel.* — The notice shall state the name, address, and telephone number of the legal counsel, if any, representing the person giving the notice.

Dated June 1, 1973.

ROBERT W. FRI,
Acting Administrator,
Environmental Protection Agency.

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