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PART I

HIGHLIGHTS OF THIS ISSUE

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

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November 14, 1973—Pages 31401–31498

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

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This is a listing of public bills enacted by Congress and approved by the President, together with the law number, the date of approval, and the U.S. Statutes citation. Subsequent lists will appear every Wednesday in the FEDERAL REGISTER, and copies of the laws may be obtained from the U.S. Government Printing Office.

H.R. 689 ..... Pub. Law 93–147
To amend section 712 of title 18 of the United States Code, to prohibit persons attempting to collect their own debts from misusing names in order to convey the false impression that any agency of the Federal Government is involved in such collection
(Nov. 3, 1973; 87 Stat. 554)

H.R. 5943 ..... Pub. Law 93–149
To amend the law authorizing the President to extend certain privileges to representatives of member states on the Council of the Organization of American States
(Nov. 7, 1973; 87 Stat. 560)

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Title 3—The President

PROCLAMATION 4254

National Farm-City Week, 1973

By the President of the United States of America

A Proclamation

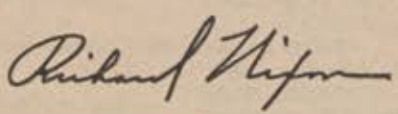
Never before in history has so much of the world looked to the American farmer for its food supply. The ability of less than 3 million farmers to keep Americans the best-fed people in the world, while simultaneously meeting the demands of countless millions overseas, is one of our Nation's greatest success stories. This success has contributed significantly not only to our own economic well-being but also to the peace and progress of all mankind.

A strong bond of interdependence links America's farms to America's cities. We should do everything we can to strengthen that bond. People in rural areas and people in urban areas must become increasingly aware of the needs and aspirations of those who live elsewhere, for neither group can prosper without the other. National Farm-City Week is an excellent vehicle for advancing this purpose.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate the period of November 16 through November 22 as National Farm-City Week.

I call on our agricultural organizations, business groups, labor unions, schools, and other interested groups, to participate in this observance. I request the Department of Agriculture, our land-grant educational institutions, and all appropriate organizations and government officials to mark the significance of National Farm-City Week with special events and activities.

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



[FR Doc.73-24376 Filed 11-12-73;2:27 pm]

Rules and Regulations

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Defense

Section 213.3306 is amended to show that one position of Personal and Confidential Assistant and one position of Private Secretary to the Director of Net Assessment are excepted under Schedule C.

Effective on November 14, 1973, § 213.3306(a)(56) and (57) are added as set out below.

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* * * *

(56) One Personal and Confidential Assistant to the Director of Net Assessment.

(57) One Private Secretary to the Director of Net Assessment.

* * * * *

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

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

[FR Doc.73-24203 Filed 11-13-73;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

Section 213.3316 is amended to reflect the following title change: from Confidential Secretary to the Special Assistant to the Secretary for Health Policy to Confidential Assistant to the Special Assistant to the Secretary for Health Policy.

Effective on November 14, 1973, § 213.3316(a)(25) is amended as set out below.

§ 213.3316 Department of Health, Education, and Welfare.

(a) *Office of the Secretary.* * * *

(25) One Confidential Assistant to the Special Assistant to the Secretary for Health Policy.

* * * * *

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

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

[FR Doc. 73-24201 Filed 11-13-73;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

Section 213.3316 is amended to show that one position of Deputy Assistant Secretary for Legislation (Welfare) is excepted under Schedule C.

Effective on November 14, 1973, § 213.3316(f)(8) is added as set out below.

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(f) *Office of the Assistant Secretary for Legislation.*

* * * * *

(8) One Deputy Assistant Secretary for Legislation (Welfare).

* * * * *

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

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

[FR Doc.73-24204 Filed 11-13-73;8:45 am]

PART 213—EXCEPTED SERVICE

U.S. Commission on Civil Rights

Section 213.3356 is amended to show that one position of Director, Congressional Liaison, is excepted under Schedule C.

Effective on November 14, 1973, § 213.3356(f) is added as set out below.

§ 213.3356 U.S. Commission on Civil Rights.

* * * * *

(f) One Director, Congressional Liaison.

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

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

[FR Doc.73-24202 Filed 11-13-73;8:45 am]

Title 7—Agriculture

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 726—BURLEY TOBACCO

Subpart—Burley Tobacco Marketing Quotas Regulations, 1971–1972 and Subsequent Years

Correction

In FR Doc. 73-22862, appearing at page 29591, in the issue of October 26, 1973, the word "or" should be inserted at the end of § 726.51(k)(2).

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 730—RICE

Subpart—1974–75 Marketing Year

Proclamations and Determinations With Respect to Marketing Quota and National Acreage Allotment for 1974 Crop Rice, and Apportionment of 1974 National Acreage Allotment of Rice Among the Several States

The provisions of §§ 730.1501 to 730.1503 are issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.) (referred to as the "act"), with respect to the 1974 crop of rice. The purpose of these provisions is to: (1) Proclaim that marketing quotas shall not be in effect for the 1974 crop of rice, (2) establish the national acreage allotment for such crop, and (3) apportion the national acreage allotment among the States. The latest available statistics of the Federal Government have been used in making determinations under these provisions.

Notice that the Secretary was preparing to make determinations with respect to these provisions was published in the FEDERAL REGISTER on September 28, 1973 (38 FR 27068), in accordance with the provisions of 5 U.S.C. 553. Data, views and recommendations were submitted pursuant to such notice and consideration was given thereto to the extent permitted by law.

It is essential that these provisions be made effective as soon as possible. Accordingly, it is hereby found and determined that compliance with the 30-day effective-date requirement of 5 U.S.C. 553 is impracticable and contrary to the public interest and §§ 730.1501 to 730.1503 shall be effective on November 9, 1973.

§ 730.1501 Marketing quotas for the 1974 crop of rice.

The total supply of rice in the United States for the marketing year beginning August 1, 1973, is determined to be 101.1 million hundredweight (rough basis). The normal supply of rice for such marketing year is determined to be 103.3 million hundredweight (rough basis). Since the total supply of rice for the 1973–74 marketing year is less than the normal supply for such marketing year, marketing quotas shall not be in effect for the 1974 crop of rice.

§ 730.1502 National acreage allotment of rice for 1974.

The normal supply of rice for the marketing year commencing August 1, 1974, is determined to be 79.3 million hundredweight (rough basis). The carryover of rice on August 1, 1974, is estimated at 4.7 million hundredweight. Therefore, the production of rice needed in 1974 to make available a supply of rice for the 1974–75 marketing year equal to the normal supply for such marketing year is 74.6 million hundredweight. The national average yield of rice for the 5 calendar years 1969 through 1973 is determined to be 4,517 pounds per planted acre. The national acreage allotment of rice for 1974 computed on the basis of the normal supply for 1974, less estimated carryover, and the national average yield per planted acre for the 5 calendar years, 1969 through 1973, 1,651,539 acres.

Since such amount is less than the minimum national acreage allotment of 1,652,596 acres prescribed under section 353(c)(6) of the act, the national acreage allotment for rice for the calendar year 1974 shall be 1,652,596 acres.

§ 730.1503 Apportionment of 1974 national acreage allotment of rice among the several States.

The national acreage allotment proclaimed in § 730.1502, less a reserve of 300 acres, is hereby apportioned among the several rice producing States as follows:

State:	*Acres*
Arizona	229
Arkansas	399,021
California	299,766
Florida	957
Illinois	20
Louisiana:	
Farm administrative area	458,057
Producer administrative area	16,951
State total	475,008
Mississippi	46,674
Missouri	4,758
North Carolina	38
Oklahoma	149
South Carolina	2,846
Tennessee	517
Texas	422,313
Total apportioned to States	1,652,296
Unapportioned national reserve	300
U.S. total	1,652,596

(Sec. 301, 352, 353, 354, 375, 52 Stat. 38, 60, 61, 66, as amended; 7 U.S.C. 1301, 1352, 1353, 1354, 1375.)

Effective Date: November 9, 1973.

Signed at Washington, D.C. on November 9, 1973.

J. PHIL CAMPBELL,
Acting Secretary.

[FR Doc.73-24218 Filed 11-9-73;11:20 am]

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

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

[Sugar Reg. 811, Amdt. 9]

PART 811—CONTINENTAL SUGAR REQUIREMENTS AND AREA QUOTAS

1973 Requirements, Quotas, and Quota Deficits

Basis and purpose and bases and considerations. This amendment is issued pursuant to the authority vested in the Secretary of Agriculture by the Sugar Act of 1948, as amended (61 Stat. 922, as amended; 7 U.S.C. 1101), hereinafter referred to as the "Act." The purpose of this amendment to Sugar Regulation 811 is to revise the determination of sugar requirements for the calendar year 1973, establish quotas and prorations consistent with such requirements and to determine and prorate or allocate the deficits in quotas established pursuant to the Act.

Section 201(a) of the Act requires a determination of the amount of sugar needed to meet the requirements of consumers in the continental United States whenever necessary to attain the price objective set forth in section 201(b) of the Act.

Section 202(g)(3) of the Act, which sets forth the procedure to use in attaining such price objective, provides that whenever the simple average of prices of raw sugar for 7 consecutive market days ending after October 31 of any year and before March 1 of the following year is 3 percent or more above or below the average price objective for the preceding 2 calendar months, the determination of requirements of consumers shall be adjusted to the extent necessary to attain such price objective.

For the 7 consecutive market days ended November 1, the simple average of the daily price of raw sugar was 11.20 cents per pound and was at least 3 percent above the average price objective of 10.80 cents per pound. Therefore, an upward adjustment in sugar requirements is considered appropriate at this time to meet the requirements of the Act.

An increase in requirements of 100,000 short tons, raw value, is necessary to attain the price objective set forth in the Act. Accordingly, total sugar requirements for the calendar year 1973 are hereby increased by 100,000 short tons, raw value, to a total of 11.7 million short tons, raw value.

Section 204(a) of the Sugar Act of 1948, as amended, provides in part that "The Secretary shall * * * as the facts are ascertainable by him but in any event not less frequently than each 60 days after the beginning of each calendar year, determine whether, * * * any area or country will not market the quota for such area or country."

It was previously determined in Sugar Regulation 811 that the Domestic Beet Sugar Area would be unable to market in excess of 3,500,000 short tons, raw value, of sugar in 1973. Accordingly, deficits were determined in the quota for the Beet Area of 96,667 tons representing the amount its quota exceeded 3,500,000 tons. Since this amendment increases the quota for that area by 47,666 tons, the deficit previously determined in the 1973 quota for the Domestic Beet Sugar Area is increased by 47,666 short tons, raw value, to 144,333 tons. If production exceeds the present estimate for the Domestic Beet Area, the marketing opportunities for the area within the total quota for the area will not be limited as a result of the deficit determination and proration provided herein.

It has been previously determined that the West Indies would be unable to fill in excess of 60,207 tons of its 1973 sugar quota to the United States. Accordingly, deficits were determined in the sugar quota for the West Indies of 59,907 tons representing the amount its quota established under section 202 of the Act exceeded 60,207 tons. On the basis of information recently available to the Department the West Indies will be able to market only 39,907 short tons, raw value, of its 1973 sugar quota. Therefore, an additional deficit of 20,000 short tons, raw value, is herein declared in the 1973 sugar quota for the West Indies.

On the basis of information recently received by the Department Australia will fail by 19,992 short tons, raw value, to fill the quota assigned to it on a first-come-first-served in Amendment 8 (38 FR 28811), for entry on or before November 21, 1973. Therefore, a deficit of 19,992 short tons, raw value, is herein declared in the quota of Australia.

It is hereby determined that quota deficits previously declared and those declared herein constitute all deficits ascertainable from information currently available to the Department.

On a comparable basis the average monthly prices of raw cane sugar were higher on the world market than the U.S. market from January through July of this year. In recent weeks the comparable U.S. price has been slightly higher. Some U.S. quota countries sold sugar to the world market during the period of higher world prices and now do not have adequate sugar to supply our needs on a prompt shipment basis. Therefore, pursuant to section 202(d)(2)(A) of the Act, it is hereby found that is not practicable to obtain in a timely manner the quantity of sugar needed from foreign countries to meet the requirements of consumers under section 201 by apportionment of the foreign requirements increase to countries pursuant to section 202(b), (c), and (d)(1) of the Act. The Secretary has also found that foreign quota countries cannot fill in a timely manner all of the additional deficits if

allocated and prorated to them pursuant to section 204(a) of the Act.

Therefore, to obtain additional sugar in a timely manner, the 35,000 short tons, raw value, increase in foreign requirements by this amendment and additional deficits of 87,658 short tons, raw value, will be permitted to be imported on a first-come, first-served basis from any sugar producing country other than Cuba and Southern Rhodesia subject to the exception in paragraph (d)(3) of § 811.23.

In view of the short time remaining to import the sugar permitted for importation by this amendment it is impractical to develop meaningful agreements with countries to purchase for dollars additional quantities of U.S. agricultural products.

By virtue of the authority vested in the Secretary of Agriculture by the Act, Part 811 of this chapter is hereby amended by amending §§ 811.20, 811.21, 811.22, and 811.23 as follows:

1. Section 811.20 is amended to read as follows:

§ 811.20 Sugar requirements, 1973.

The amount of sugar needed to meet the requirements of consumers in the continental United States for the calendar year 1973 is hereby determined to be 11,700,000 short tons, raw value.

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

§ 811.21 Quotas for domestic areas.

(a)(1) For the calendar year 1973 domestic area quotas limiting the quantities of sugar which may be brought into or marketed for consumption in the continental United States are established, pursuant to section 202(a) of the Act, in column (1) and the amounts of such quotas for offshore areas that may be filled by direct-consumption sugar are established, pursuant to section 207 of the Act, in column (2) as follows:

Area	Quotas	Direct-consumption limits
	(1)	(2)
	(Short tons, raw value)	
Domestic beet sugar	3,644,333	No limit
Mainland cane sugar	1,625,667	No limit
Texas cane area	20,000	No limit
Hawaii	1,185,000	40,356
Puerto Rico	855,000	169,000

(2) It is hereby determined pursuant to section 204(a) of the Act that for the calendar year 1973 the Domestic Beet Sugar Area, the Texas Cane Area, Hawaii, and Puerto Rico will be unable by 144,333, 15,000, 42,000, and 765,000 short tons, raw value, respectively, to fill the quotas established for such areas in paragraph (a)(1) of this section. Pursuant to section 204(b) of the Act the determination of such deficits shall not affect the quotas established in paragraph (a)(1) of this section.

* * * * *

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

§ 811.22 Proration and allocation of deficits in quotas.

(a) The total deficits determined in quotas established under section 202 of the Act in short tons, raw value, are as follows: Domestic Beet Sugar Area 144,333; the Texas Cane Area 15,000; Hawaii 42,000; Puerto Rico 765,000; the West Indies 79,907; Panama 3,137; Honduras 10,351; Venezuela 21,149; Haiti 11,446; and Australia 19,992. The deficits for the domestic areas, the West Indies, Panama, Venezuela, Haiti, Honduras, and Australia totaling 1,112,315 short tons, raw value, are reallocated by (1) allocating 286,253 tons to the Republic of the Philippines; (2) prorating 665,280 tons to Western Hemisphere countries with quotas in effect in accordance with section 204(a) of the Act, except such proration to the West Indies, Panama, Venezuela, Haiti, Peru, and Paraguay are limited so that total quotas for each country will not exceed 40,207, 52,500, 31,902, 15,295, 426,245 and 7,155 tons, respectively; (3) assigning 62,773 tons to foreign countries on a first-come, first-served basis pursuant to subparagraph (d)(2) of § 811.23 as set forth in Amendment 8 of this Part; (4) assigning 87,658 tons to foreign countries on a first-come, first-served basis pursuant to subparagraph (d)(3) of § 811.23 as set forth in this Amendment 9 of this Part and (5) prorating the deficit for Honduras of 10,351 tons plus other deficits accruing to it to other Central American Common Market countries.

* * * * *

4. Section 811.23 is amended by amending paragraph (c), and adding a new subparagraph (d)(3) to read as follows:

§ 811.23 Quotas for foreign countries.

* * * * *

(c) For the calendar year 1973, the prorations to individual foreign countries other than the Republic of the Philippines pursuant to section 202 of the Act and a quantity to be allocated on a first-come, first-served basis are shown in columns (1) and (2) of the following table. Deficit prorations and first-come, first-served allocations previously assigned in § 811.23 are shown in column (3). Deficit determinations and the deficit quantity of 87,658 tons to be allocated to foreign countries on a first-come, first-served basis as provided herein are shown in column (4). Total quotas and prorations are shown in column (5).

Countries	Basic quotas	Temporary quotas and prorations pursuant to sec. 202(d)[1]	Previous deficit prorations and allocations pursuant to § 811.23(d)(2)	New deficits	Total quotas and prorations
	(1)	(2)	(3)	(4)	(5)
	(Short tons, raw value)				
Dominican Republic	405,584	146,484	180,388	0	732,456
Mexico	358,689	129,846	144,045	0	632,280
Brazil	349,817	126,342	140,482	0	616,641
Peru	250,322	90,408	85,515	0	426,245
West Indies	89,650	30,464	−59,907	−20,000	40,207
Ecuador	51,649	18,655	20,742	0	91,046
Argentina	48,480	17,510	19,469	0	85,459
Costa Rica	43,727	15,793	36,590	0	96,110
Colombia	43,093	15,564	17,306	0	75,963
Panama	40,875	14,762	−3,137	0	52,500
Nicaragua	40,875	14,762	20,086	0	75,723
Venezuela	38,974	14,077	−21,149	0	31,902
Guatemala	37,390	13,504	18,373	0	69,267
El Salvador	27,250	9,842	13,392	0	50,484
Belize (Br. Honduras)	21,547	7,781	14,399	0	43,727
Haiti	19,645	7,096	−11,446	0	15,295
Honduras	7,605	2,746	−10,351	0	0
Bolivia	4,119	1,488	1,654	0	7,261
Paraguay	4,119	1,488	1,548	0	7,155
Australia	159,065	44,951	43,177	−19,992	225,201
Republic of China	66,224	18,715	0	0	84,939
India	63,689	17,999	0	0	81,688
South Africa	44,994	12,715	2,934	0	60,643
Fiji Islands	34,855	9,850	0	0	44,705
Mauritius	23,448	6,626	14,544	0	44,618
Swaziland	23,448	6,626	264	0	30,338
Thailand	14,576	4,118	496	0	19,190
Malawi	11,734	3,313	0	0	15,037
Malagasy Republic	9,506	2,686	0	0	12,192
Ireland	5,351	0	0	0	5,351
To be allotted[2]	26,045	8,955		87,658	122,658
Total	2,366,335	814,866	667,414	47,666	3,896,281

[1] Proration of the quotas withheld from Cuba, Southern Rhodesia, Bahamas, the West Indies, and Uganda.
[2] Will be allotted to foreign countries pursuant to subparagraph (d)(3) of this section.

* * * * *

(d) * * *

(3) The quantity of sugar in column (4) of the table in paragraph (c) of this section designated as "To be allotted" amounting to 122,658 short tons, raw value, may be authorized only for importation on or before December 26, 1973, from sugar-producing countries other than Cuba and Southern Rhodesia. All U.S. quota countries must have filled their respective 1973 quotas prior to the importation of such sugar. Authorizations for the importation of such sugar shall be made on the basis of applications for Sugar Quota Clearance on Form SU-3 or applications for Set-Aside of Quota on Form SU-8A in accordance with provisions of Part 817 of this chapter, except that (i) in the case of any foreign country with a U.S. sugar quota, on whose behalf an application is submitted

on Forms SU–3 or SU–8A on or before November 7, 1973, to import sugar made available herein: if such application is not eligible on a first-come, first-served basis for approval of the full quantity applied for, but such application meets all the other requirements set forth in this amendment and Sugar Regulation 817, then such country shall receive an allocation equal to the smaller of the quantity applied for or the share of the requirement increase such country would have received had such increase been allocated and prorated under the normal procedure (i.e., pursuant to sections 202 (b), (c), d(1), d(3), d(4), and 204(a) of the Act). The computation of such share for any country is available from the Quota and Allotment Branch, Sugar Division, ASCS, U.S. Department of Agriculture (Telephone 202–447–7943), (ii) if two or more applications on Forms SU–3 or on SU–8A become eligible for authorization at the same time, first priority shall be given to the earliest arrival date and second priority to earliest departure date stated therein, (iii) each application for Set-Aside of quota must show the anticipated dates of departure and arrival of the sugar (in lieu of a 3-month period as shown on the form) and show "5th" day and "5" days instead of "15th" day and "15" days respectively as shown on the application form, and (iv) in the case of countries with a U.S. quota each application on Form SU–3 or SU–8A must include a certification that the country has or will have filled its currently effective 1973 quota on or before the importation date of such additional sugar. Set-Aside applications to import sugar under this subparagraph received on or before November 7, 1973, shall be considered as having been received at the same time. Applications covering sugar authorized pursuant to this subparagraph shall become invalid for any portion of such sugar which has not been imported into the United States on or before December 31, 1973. Any such sugar, the authorized importation of which has been invalidated, may be authorized for entry within an applicable 1974 quota, be re-exported or be authorized for entry for quota exempt purposes.

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

Effective date. This action increases quotas for the calendar year 1973 by 100,000 tons, determines additional deficits of 87,658 tons, and makes available for importation on or before December 26, from foreign quota countries on a first-come, first-served basis the additional deficits of 87,658 tons plus the 35,000 tons foreign quota increase. In order to promote orderly marketings, it is essential that this amendment be effective immediately so that all persons selling and purchasing sugar for consumption in the continental United States can promptly plan and market under the changed marketing opportunities. Therefore, it is hereby determined and found that compliance with the notice, procedure, and effective date requirements of 5 U.S.C. 553 is unnecessary, impracticable, and contrary to the public interest and this amendment shall be effective on November 9, 1973.

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

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

[FR Doc.73-24220 Filed 11-9-73;12:06 p.m.]

PART 811—CONTINENTAL SUGAR REQUIREMENTS AND AREA QUOTAS

Requirements and Quotas for 1974

Basis and purpose and bases and considerations. This regulation is issued pursuant to the authority vested in the Secretary of Agriculture by the Sugar Act of 1948, as amended (61 Stat. 922, as amended; 7 U.S.C. 1101), hereinafter referred to as the "Act". The purpose of Sugar Regulation 811 is to determine pursuant to section 201 of the Act the amount of sugar needed to meet the requirements of consumers in the continental United States for the calendar year 1974, and to establish sugar quotas for the supplying areas in terms of short tons of sugar, raw value, equal to the amount determined to be needed in 1974. Furthermore, this regulation determines and prorates and allocates deficits in quotas, establishes quantities of certain quotas that may be filled by direct-consumption sugar and establishes a liquid sugar quota.

In accordance with the rulemaking requirements in 5 U.S.C. 553, there was published in the FEDERAL REGISTER (38 FR 28838), a notice of proposed rulemaking for the issuance of a regulation determining sugar requirements for the continental United States and establishing quotas for the calendar year 1974. Written data, views, or arguments for consideration in connection with the proposed regulation were to be submitted by interested persons prior to October 24, 1973. Thorough consideration has been given to all data, views, and comments received relative to the proposed regulation. Such views are briefly summarized at the end of this statement of bases and considerations.

Subsection 201(a) of the Act requires a determination for each calendar year of the amount of sugar needed to meet the requirements of consumers in the continental United States and a revision of such determination during the calendar year whenever necessary to attain the price objective set forth in subsection 201(b) of the Act.

The price objective is a price for raw sugar which will maintain the same ratio between such price and the average of the parity index (1967=100) and the wholesale price index (1967=100) as the ratio that existed between (1) the simple average of the monthly price objective calculated for the period September 1, 1970, through August 31, 1971, under this section as in effect immediately prior to the date of enactment of the Sugar Act Amendments of 1971 (8.54 cents per pound), and (2) the simple average of such two indexes for the same period (115.4). Adjustments shall be made in the determination of requirements during the period November through February whenever the simple average price for raw sugar over 7 consecutive market days is 3 percent or more above or below the average price objective for the previous 2 calendar months. The percentage is increased to 4 percent for the March through October period.

During the first nine months of 1973, the domestic price of raw sugar fluctuated from a low 9.14 cents per pound as an average for February to a high of 10.97 cents per pound as an average for September. The average for the nine month period was 9.99 cents per pound or 10.1 percent more than the 9.07 cents per pound average for the first nine months of 1972. The price on October 30 was 11.20 cents per pound, or 103.7 percent of the price referred to in section 201 of the Act. In developing this determination, consideration has been given to maintaining prices in 1974 that will carry out the price objective set forth in section 201(b) of the Act.

The distribution of quota sugar in the United States during the twelve months ended August 31, 1973, amounted to 11,548,000 short tons, raw value. That quantity was about 43,000 tons more than the quantity distributed in the preceding twelve month period.

Population is growing at an annual rate of about 0.75 percent. Accordingly, population during calendar year 1974 should be about 1.00 percent greater than in the twelve-month period ended August 31, 1973. Thus, distribution in 1974 might be expected to approximate 11,663,000 tons.

The cane sugar refining industry customarily has refining losses of about 65,000 tons annually. Therefore, it would appear that new quota supplies of 11,738,000 could have the effect of maintaining refiners' inventories of quota sugar at year end 1974 at the same level as at the beginning of the year.

In consideration of these matters, it is determined that 11.8 million short tons, raw value, is the quantity of sugar needed to meet the requirements of consumers in the continental United States and to attain the price objective of the Act.

The quota for Southern Rhodesia has been withheld pursuant to Executive Order 11322 issued on January 5, 1967, and is prorated herein to Western Hemisphere countries pursuant to section 202 (d) (1) (B) of the Act.

On the basis of information currently available to the Department, it is herein determined, pursuant to section 202 (d) (3) of the Act, that total quotas be withheld and not established for the Bahamas and Uganda for calendar year 1974. The total quantity of quotas withheld from the Bahamas and Uganda are prorated herein to other foreign countries in the same manner as deficits under section 204 of the Act.

Pursuant to section 202(d)(4) of the Act and on the basis of current 1973 requirements the 1974 quotas for the West Indies, Peru, and Venezuela are reduced by 179,309, 12,793, and 8,428 short tons, raw value, respectively.

It is also determined on the basis of information currently available to the Department that no reduction is required at this time, pursuant to section 202 (d) (3) and (4) of the Act, in the quotas established herein for other foreign countries. This action is based on the tentative assumption that each such country will fill its 1973 quota within a reasonable tolerance and that facts will be submitted which will support a finding that any deficit and/or shortfall in a country's 1973 quota was due to force majeure.

Production of sugar in Puerto Rico is not expected to exceed 295,000 short tons, raw value, while requirements for consumption in Puerto Rico are expected to be of the order of 140,000 tons. It appears that the quantity of sugar from Puerto Rico available for shipment to the continental United States would not be more than 155,000 tons. It is now estimated that the Domestic Beet Sugar area may have about 300,000 tons lower effective inventory of sugar as of January 1, 1974, than at the beginning of 1973. The size of the effective inventory limits marketings of domestic beet sugar until new crop becomes available. Therefore, it appears that the Domestic Beet sugar area will be unable to market sugar in excess of 3,300,000 short tons, raw value. Accordingly, deficits are herein determined in the quotas for Puerto Rico and the Domestic Beet sugar area of 700,000 and 392,000 short tons, raw value, respectively, and such total quantity of 1,092,000 short tons, raw value, is herein allocated, pursuant to section 204(a) of the Act, to the Republic of the Philippines and Western Hemisphere countries with 1974 quotas in effect.

This determination differs from the proposal announced on October 4, in the following respects: (1) Sugar requirements and quotas have been increased by 100,000 tons; (2) The adjusted Domestic Beet Sugar Area quota has been reduced to 3,300,000 because of larger projected deficits; and (3) The reductions in the quotas for the West Indies, Peru, and Venezuela were recomputed to give for each country full consideration to 1974 deficit prorations.

The following views were received from interested persons regarding the proposed requirements level announced on October 4, 1973:

The American Sugar Cane League, of the U.S.A., Inc., the Hawaiian Sugar Planters' Association, and the National Sugarbeet Growers Federation recommended that 1974 requirements be established at 11,600,000 short tons, raw value. The California Beet Growers Association, Ltd. recommended a 1974 requirement level of 11,550,000 tons. The United States Beet Sugar Association and the Florida Sugar Cane League, Inc. recommended that 1974 sugar requirements be established at less than 11.7 million tons. The principal reason given for recommending lower requirement levels was to maintain a sugar price level which would give producers an incentive to produce sugar crops in competition with other crops in order to continue a viable domestic sugar industry.

Pepsico and the Sugar Users Group, representing 12 food processing associations recommended that 1974 sugar requirements be established at 11.9 million tons. General Foods Corporation recommended 1974 requirements at 11,875,000 tons. The United States Cane Sugar Refiners Association recommended a level in excess of 11.7 million tons. The industrial users and the Refiners Association were in agreement that all anticipated deficits should be prorated to foreign countries in the initial determination, also that each foreign country should know as soon as possible the quantity of sugar the United States would need from it during 1974 so such sugar could be reserved for this market, particularly during the present period of high world prices. The Sugar Users Group and Pepsico pointed out that current surgar prices are near the top of the price corridor. The users also believed that refiners should maintain higher sugar inventory levels than at present.

The Cost of Living Council of the Economic Stabilization Program recommended a 1974 requirement level of 12.0 million tons to assist in curbing the rise in sugar prices and to provide adequate supplies at reasonable prices for American consumers in 1974.

Part 811 of Title 7 of the Code of Federal Regulations is amended by adding the following sections:

Sec.
811.30 Sugar requirements 1974.
811.31 Quotas for domestic areas.
811.32 Proration and allocation of deficits in quotas.
811.33 Quotas for foreign countries.
811.34 Applicability of quotas.
811.35 Restrictions on importations and marketings within quotas.

AUTHORITY: Secs. 201, 202, 204, 207, 208, 209, 210 and 403; 61 Stat. 923, as amended, 924, as amended, 925, as amended, 927, as amended, 928, as amended and 932; 7 U.S.C. 1111, 1112, 1114, 1117, 1118, 1119, 1120 and 1153.

§ 811.30 Sugar requirements 1974.

The amount of sugar needed to meet the requirements of consumers in the continental United States for the calendar year 1974 is hereby determined to be 11,800,000 short tons, raw value.

§ 811.31 Quotas for domestic areas.

(a)(1) For the calendar year 1974, domestic area quotas limiting the quantities of sugar which may be brought into or marketed for consumption in the continental United States are established, pursuant to section 202(a) of the Act in column (1), and the amounts of such quotas for offshore areas that may be filled by direct-consumption sugar are established, pursuant to section 207 of the Act in column (2), as follows:

Area	Quotas (1)	Direct-consumption limits (2)
	(Short tons, raw value)	
Domestic beet sugar	3,692,000	No limit
Mainland cane sugar	1,643,000	No limit
Texas cane	100,000	No limit
Hawaii	1,110,000	39,672
Puerto Rico	855,000	168,000

(2) It is hereby determined pursuant to section 204(a) of the Act that for the calendar year 1974, Puerto Rico and the Domestic Beet Area will be unable by 700,000 and 392,000 short tons, raw value, respectively, to fill their quotas established in paragraph (a)(1) of this section. Pursuant to section 204(b) of the Act the determination of such deficits shall not affect the quotas established in paragraph (a)(1) of this section.

(b) Of the quantity established in paragraph (a) of this section for Puerto Rico which may be filled by direct-consumption sugar 126,033 short tons, raw value, may be filled only by sugar principally of crystalline structure.

§ 811.32 Proration and allocation of deficits in quotas.

(a) The deficit in the Puerto Rican and the Domestic Beet Area quotas determined in paragraph (a)(2) of § 811.31 of 1,092,000 short tons, raw value, is hereby prorated and allocated pursuant to section 204(a) of the Act, by allocating 30.08 percent or 328,474 short tons, raw value, to the Republic of the Philippines and by prorating the remaining 763,526 short tons, raw value, to Western Hemisphere countries on the basis of quotas determined herein pursuant to section 202.

(b) In establishing deficit prorations herein for Western Hemisphere countries consideration has been given to the purchase of U.S. agricultural commodities by such countries, by determining that the value of U.S. agricultural exports to each such country exceeded the total net receipts f.a.s. port of shipment derived from the sale of sugar from deficit prorations imported from each such country during the most recent 12-month period for which data are available. Each foreign country which is unable to fill its quota including its deficit proration has the responsibility to notify the Secretary the extent of and reasons for such shortfall.

§ 811.33 Quotas for foreign countries.

(a) The quotas or prorations for foreign countries limiting the quantities of sugar which may be imported into the continental United States during the calendar year 1974 for consumption therein and the amounts of such quotas and prorations that may be filled by direct-consumption sugar are hereby established as set forth in the following paragraph (b), (c), (d), (e), and (f) of this section.

(b) For the calendar year 1974, the quota for the Republic of the Philippines is 1,526,445 short tons, raw value, representing 1,126,020 short tons, established

pursuant to section 202(b) of the Act, 328,474 short tons established pursuant to section 204 of the Act and 71,951 short tons established pursuant to section 202 (d) of the Act. Of the quantity of 1,126,020 short tons established pursuant to section 202(b) of the Act, only 59,920 short tons, raw value, may be filled by direct-consumption sugar pursuant to section 207(d) of the Act.

(c) For the calendar year 1974, the prorations to individual foreign countries other than the Republic of the Philippines pursuant to section 202 of the Act are shown in colums (1) and (2) of the following table. In column (3) a portion of the deficit proration in the quotas of Puerto Rico and the Domestic Beet area amounting to 763,526 short tons, raw value, is herein prorated to Western Hemisphere countries listed in section 202(c)(3)(A) of the Act, on the basis of quotas determined herein pursuant to section 202. Total quotas and prorations are shown in column (4).

Production area	Basic quotas	Temporary quotas and other prorations pursuant to Sec. 202(d) [1]	Deficit prorations	Total quotas and prorations
	(Short tons, raw value)			
Dominican Republic	418,384	180,815	160,928	760,127
Mexico	370,009	159,910	142,320	672,239
Brazil	360,857	155,954	138,800	655,611
Peru	248,688	85,009	99,323	433,020
West Indies	1,038	355	51,799	53,192
Ecuador	53,279	23,036	20,493	96,798
Argentina	50,010	21,614	19,236	90,860
Costa Rica	45,107	19,495	17,350	81,952
Colombia	44,453	19,212	17,099	80,764
Panama	42,165	18,222	16,218	76,605
Nicaragua	42,165	18,222	16,218	76,605
Venezuela	33,923	11,596	15,464	60,983
Guatemala	38,570	16,669	14,836	70,075
El Salvador	28,110	12,148	10,812	51,070
British Honduras	22,227	9,606	8,549	40,382
Haiti	20,265	8,758	7,795	36,818
Honduras	7,845	3,390	3,018	14,253
Bolivia	4,249	1,836	1,634	7,719
Paraguay	4,249	1,836	1,634	7,719
Australia	164,085	44,963	0	209,048
Republic of China	68,314	18,720	0	87,034
India	65,699	18,002	0	83,701
South Africa	46,414	12,718	0	59,132
Fiji Islands	35,955	9,853	0	45,808
Mauritius	24,188	6,628	0	30,816
Swaziland	24,188	6,628	0	30,816
Thailand	15,036	4,120	0	19,156
Malawi	12,094	3,314	0	15,408
Malagasy Republic	9,806	2,687	0	12,493
Ireland	5,351	0	0	5,351
Total	2,306,723	895,306	763,526	3,965,555

[1] Proration of the quota withheld from Cuba, Southern Rhodesia, Bahamas, Uganda, West Indies, Peru, and Venezuela.

(d) The importation of raw sugar within the annual quotas from foreign countries will be authorized on the basis of applications on Form SU-3 in accordance with the provisions of Part 817 of this chapter. Applications to import raw sugar from the Republic of the Philippines, before final approval, must be supplemented by certification from the Sugar Quota Administrator for the Government of the Philippines granting the applicant the permission to export sugar to the U.S. market.

(e) For the calendar year 1974, the quantity of each proration established in paragraph (c) of this section that may be filled by direct-consumption sugar pursuant to section 207(e) of the Act is as follows:

Country:	*Short tons, raw value*
Ireland	5,351
Panama	3,817

(f) For the calendar year 1974, the quota for liquid sugar for foreign countries as a group is 2,000,000 gallons of sirup of cane juice of the type of Barbados molasses, limited to liquid sugar containing soluble nonsugar solids (excluding any foreign substances that may have been added or developed in the product) of more than five percent of the total soluble solids, which is not to be used as a component of any direct-consumption sugar but is to be used as molasses without substantial modification of its characteristics after importation.

§ 811.34 Applicability of quotas.

(a) All sugar and liquid sugar marketed or imported into the continental United States is subject to the provisions of Part 816 or Part 817 of this chapter which prescribe the time, manner, and conditions under which quotas and prorations are filled by the marketing and importation of sugar or liquid sugar.

(b) The quantitative limitations established by sections 811.31 to 811.33, inclusive, do not apply to sugar or liquid sugar marketed or imported pursuant to section 211 or 212 of the Act in accordance with the provisions of Part 816 or Part 817 of this chapter.

§ 811.35 Restrictions on importation and marketings within quotas.

Subject to the provisions of Parts 816 and 817 of this chapter all persons are prohibited from bringing or importing into or marketing in the continental United States, (a) any sugar or liquid sugar from any country for which no quota is established or in excess of or after the applicable quota or quantity set forth in §§ 811.31 to 811.33 inclusive has been filled, or (b) any sugar or liquid sugar as direct-consumption sugar from any country for which no direct-consumption sugar limitation is established or after the direct-consumption portion of the applicable quota has been filled.

Effective date. The Act provides for the determination of sugar requirements and the establishment of sugar quotas for the continental United States for the calendar year 1974 during October of 1973. This regulation applies to the submission and approval of applications to import sugar prior to January 1, 1974, for the importation of sugar subsequent to that date. Accordingly, it is hereby found to be impracticable and not in the public interest to comply with the 30-day effective date requirements in 5 U.S.C. 553. The aspects of § 811.33 relating to the submission and approval of applications shall be effective on November 9, 1973 and all other provisions of this regulation shall become effective January 1, 1974.

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

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

[FR Doc.73-24219 Filed 11-9-73;12:04 pm]

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

[Orange Reg. 72, Amdt. 2; Grapefruit Reg. 74, Amdt. 2; Tangerine Reg. 45, Amdt. 2; Tangelo Reg. 45, Amdt. 2]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

These amendments prescribe total limitation of shipment regulations for oranges, grapefruit, tangerines, and tangelos during the period beginning at 6 p.m., e.s.t., November 20, 1973, and ending at 12:01 a.m., e.s.t., November 23, 1973. The regulations are designed to avert the accumulation of excessive market supplies of the specified fruits during the Thanksgiving holiday period in which, historically, there has been greatly reduced market demand.

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida; effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of oranges, grapefruit,

tangerines and tangelos, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) These amendments reflect the Department's appraisal of the potential marketing situation during the week in which Thanksgiving Day occurs and for the period immediately following. Historically, there has been heavy purchasing of fresh oranges, grapefruit, tangerines and tangelos in the terminal markets prior to Thanksgiving Day followed by a period of slow movement immediately following the holiday. An accumulation of excessive quantities of fruit in the markets during and immediately following the Thanksgiving Day week contributes to unstable marketing conditions. Hence, the curtailment of such shipments, as hereinafter specified, would contribute to a better managed supply situation and in turn to the establishment of orderly marketing.

(3) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of these amendments until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553), in that the time intervening between the date when information upon which these amendments are based became available and the time when these amendments must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective upon publication in the FEDERAL REGISTER. Domestic shipments of Florida oranges, grapefruit, tangerines and tangelos are currently regulated pursuant to Orange Regulation 72, (38 FR 25665, 28063), Grapefruit Regulation 74, (38 FR 25665, 28063), Tangerine Regulation 45, (38 FR 25665, 28063), and Tangelo Regulation 45, (38 FR 25665, 28063) and, unless sooner terminated or modified, will continue to be so regulated through September 29, 1974; determinations as to the need for, and extent of, regulation under § 905.52 (a)(3) of the order must await the development of the crops and the availability of information about the demand for such fruits; the recommendation and supporting information for limiting the total quantity of fresh oranges, grapefruit, tangerines and tangelos by prohibiting shipments thereof, pursuant to said section, during the period herein provided, were promptly submitted to the Department after an open meeting of members of the Growers Administrative Committee on November 6, 1973, held to consider recommendations for such regulations, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; necessary supplemental information was submitted to the Department on November 6, 1973; information regarding the provisions of the regulations recommended by the committees has been disseminated among shippers of such fruits grown in the production area, and these regulations, including the effective time thereof, are identical with the recommendations of the committees; and compliance with these regulations will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective time hereof.

Order. 1. In § 905.550 (Orange Regulation 72; 38 FR 25665, 28063), the provisions of paragraph (b) preceding paragraph (b)(1) thereof are revised, and a new paragraph (d) is added to read as follows:

§ 905.550 Orange Regulation 72.

* * * * *

(b) Except as otherwise provided in paragraph (d) of this section, during the period October 15, 1973, through September 29, 1974, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

* * * * *

(d) During the period beginning at 6 p.m., e.s.t. November 20, 1973, and ending at 12:01 a.m., e.s.t. November 23, 1973, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico, any oranges grown in the production area.

2. In § 905.551 (Grapefruit Regulation 74; 38 FR 25665, 28063), the provisions of paragraph (b) preceding paragraph (b)(1) thereof are revised, and a new paragraph (d) is added to read as follows:

§ 905.551 Grapefruit Regulation 74.

* * * * *

(b) Except as otherwise provided in paragraph (d) of this section, during the period October 15, 1973, through September 29, 1974, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

* * * * *

(d) During the period beginning at 6 p.m., e.s.t. November 20, 1973, and ending at 12:01 a.m., e.s.t. November 23, 1973, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico, any grapefruit grown in the production area.

3. In § 905.552 (Tangerine Regulation 45; 38 FR 25665, 28063), the provisions of paragraph (b) preceding paragraph (b)(1) thereof are revised, and a new paragraph (d) is added to read as follows:

§ 905.552 Tangerine Regulation 45.

* * * * *

(b) Except as otherwise provided in paragraph (d), during the period October 15, 1973, through September 29, 1974, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

* * * * *

(d) During the period beginning at 6 p.m., e.s.t. November 20, 1973, and ending at 12:01 a.m., e.s.t. November 23, 1973, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico, any tangerines grown in the production area.

4. In § 905.553 (Tangelo Regulation 45; 38 FR 25665, 28063), the provisions of paragraph (b) preceding paragraph (b)(1) thereof are revised, and a new paragraph (d) is added to read as follows:

§ 905.553 Tangelo Regulation 45.

* * * * *

(b) Except as otherwise provided in paragraph (d), during the period October 15, 1973, through September 29, 1974, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

* * * * *

(d) During the period beginning at 6 p.m., e.s.t. November 20, 1973, and ending at 12:01 a.m., e.s.t. November 23, 1973, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico, any tangelos grown in the production area.

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

Dated November 9, 1973, to become effective on November 14, 1973.

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

[FR Doc.73-24286 Filed 11-13-73;8:45 am]

Title 9—Animals and Animal Products

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

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

Change in Disease Status of the Bahama Islands

Statement of consideration. The purpose of these amendments is to add the Bahama Islands (1) to the list of countries in § 94.11(a) which are declared to be free of rinderpest and foot-and-mouth disease in § 94.1 but which supplement their national meat supply by the importation of fresh, chilled, or frozen meat of ruminants or swine from countries that are designated in § 94.1(a) to be infected with rinderpest or foot-and-mouth disease; (2) to the list of countries in § 94.12(a) which are listed as free of swine vesicular disease; and (3) to the list of countries in § 94.13 which are declared to be free of swine vesicular

disease in § 94.12(a) but which supplement their national meat supply by the importation of fresh, chilled, or frozen meat of ruminants or swine from countries where swine vesicular disease is considered to exist. This action to restrict the importation of fresh, chilled, or frozen meats of ruminants and swine into the United States from the Bahama Islands is necessary to protect the livestock of the United States since that country supplements its national meat supply from countries considered to be infected with rinderpest or foot-and-mouth disease and swine vesicular disease.

Pursuant to section 2 of the Act of February 2, 1903, as amended, section 306 of the Act of June 17, 1930, as amended, and sections 2, 3, 4, and 11 of the Act of July 2, 1962 (19 U.S.C. 1306; 21 U.S.C. 111, 134a, 134b, 134c, 134f), Part 94, Title 9, Code of Federal Regulations, is hereby amended as follows:

§ 94.11 [Amended]

1. Section 94.11(a) is amended by adding in the first sentence the name of the Bahama Islands before the reference to "Great Britain."

§ 94.12 [Amended]

2. Section 94.12(a) is amended by adding thereto the name of the Bahama Islands after the reference to "Australia."

§ 94.13 [Amended]

3. Section 94.13 is amended by adding in the first sentence of the introductory paragraph the name of the Bahama Islands before the reference to "Belgium."

(Sec. 306, 46 Stat. 689, as amended; sec. 2, 32 Stat. 792, as amended; secs. 2, 3, 4, and 11, 76 Stat. 129, 130, 132; 19 U.S.C. 1306; 21 U.S.C. 111, 134a, 134b, 134c, 134f; 37 FR 28464, 28477; 38 FR 19141.)

Effective date. The foregoing amendments shall become effective November 8, 1973.

The restrictions imposed by these amendments must be made effective immediately to protect the livestock industry of the United States against the introduction of rinderpest, foot-and-mouth disease and swine vesicular disease from foreign countries. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and unnecessary, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 8th day of November 1973.

E. E. SAULMON,
Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.73-24223 Filed 11-13-73;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 13298; Amdt. 95-239]

PART 95—IFR ALTITUDES

Miscellaneous Amendments

The purpose of this amendment to Part 95 of the Federal Aviation Regulations is to make changes in the IFR altitudes at which all aircraft shall be flown over a specified route or portion thereof. These altitudes, when used in conjunction with the current changeover points for the routes or portions thereof, also assure navigational coverage that is adequate and free of frequency interference for that route or portion thereof.

As a situation exists which demands immediate action in the interest of safety, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (24 FR 5662), Part 95 of the Federal Aviation Regulations is amended, effective December 6, 1973, as follows:

1. By amending Subpart C as follows:

§95.1001 DIRECT ROUTES—U.S.
is amended by adding:

FROM	TO	MEA
Sawyer, Mich. VOR	Traverse City, Mich. VORTAC	18000 MAA—45000
Traverse City, Mich. VORTAC	Peck, Mich. VORTAC	18000 MAA—45000
Fillmore, Calif. VORTAC	Fresno, Calif. VORTAC COP 65 FIM	18000 MAA—45000

§95.1001 DIRECT ROUTES—U.S.
is amended to read in part:

FROM	TO	MEA
Florence, S.C. VOR Via FLO 325 M rad/CTF 100M rad. *1900—MOCA	Chesterfield, S.C. VOR	*2300
Eglin, Fla. VOR *1600—MOCA	Panama City, Fla. VOR	*2000

Panama Routes
§95.1001 DIRECT ROUTES—U.S.

FROM	TO	MEA
Amber 13 is amended to read in part:		
Taboga Island, R.P. NDB *4200—MOCA	Marina INT, R.P.	*5000
V-3 is amended to delete:		
France Fld. C.Z. VOR *1300—MOCA	40 mi DME Fix	*3000
40 mi DME Fix Via 009 M rad *1000—MOCA	Champion INT, C.Z.	*10500
V-4 is amended to delete:		
France Fld. C.Z. VOR *1300—MOCA	40 mi DME Fix	*3000
40 mi DME Fix *1000—MOCA	Canning INT, C.Z.	*12500
V-4 is amended by adding:		
France, Panama C.Z. VOR *1300—MOCA	INT, 015 M rad France VOR & 40 NM from France VOR	*3000
INT 915 M rad France VOR & 40 NM from France VOR *1200—MOCA	Marina INT, R.P.	*12000
V-6 is amended to delete:		
Taboga Island, R.P. VOR *2100—MOCA	LAT 08-35N, Long 78-40W	*3000

RNAV Waypoint Name Changes

"Tightwad, Mo." to "Tight"; "Hawk, Mo." to "Hawks"; "Bogard, Mo." to "Bogie"; "West Plaines, Mo." to "Wests"; "Redfield, Mo." to "Field"; "Sprott, Mo." to "Sprot"; "Lawson, Mo." to "Lasso"; "Waldron, Ark." to "Waldo"; "Birdeye, Ark." to "Birle"; "Horatio, Ark." to "Horeb"; "Kenner, La." to "Kenna"; "Montpelier, La." to "Monza"; "Gueydan, La." to "Guest"; "Burkeville, La." to "Burke"; "Refinery, Tex." to "Refix"; "Tenaha, Tex." to "Tenna"; "Maryneal, Tex." to "Marne"; "Canadian, Tex." to "Canas"; "Telegraph, Tex." to "Tella"; "Plains, Tex." to "Plain"; "Rochester, Tex." to "Rocks"; "Crowell, Tex." to "Crows"; "Hye, Tex." to "Hyeto"; "Yantis, Tex." to "Yanti"; "Diversion, Tex." to "Diver"; "Kay, Okla." to "Kayes"; "Tangier, Okla." to "Tangy"; "Dresden, Kans." to "Dress"; "Lenora, Kans." to "Lenny"; "Potter, Kans." to "Potsy"; "Walcott, Kans." to "Welco"; "Enterprise, Kans." to "Enter"; "Larrabee, Kans." to "Larch"; "Factory, Kans." to "Facto"; "Granada, Colo." to "Grand"; "Sanford, Colo." to "Sandy"; "Gypsum, Colo." to "Monte"; "Cabin Creek, Colo." to "Cabin"; "Gilcrest, Colo." to "Gilly"; "Blanco, Colo." to "Bland"; "Maybelle, Colo." to "Maybe"; "Shawnee, Colo." to "Shawn"; "Hog Back, Colo." to "Gogan"; "Monument, Colo." to "Month"; "Almont, Colo." to "Almon"; "Strasburg, Colo." to "Stras"; "Rulison, Colo." to "Rulis"; "Golden, Colo." to "Golde"; "Redstone, Colo." to "Redds"; "Wiggins, Colo." to "Wiggi"; "Volcano, N. Mex." to "Volca"; "Defiance, N. Mex." to "Defer"; "Two Wells, N. Mex." to "Wells"; "Springer, N. Mex." to "Sprin"; "Vaughan, N. Mex." to "Vault"; "Jal, N. Mex." to "Jalop"; "Jewett, N. Mex." to "Jewel"; "Mora, N. Mex." to "Moras"; "Cameron, Ariz." to "Camel"; "Peak, Ariz." to "Peaks"; "Sheldon, Ariz." to "Shell"; "Sycamore, Ariz." to "Sycmo"; "Brenda, Ariz." to "Brent"; "Terrace, Ariz." to "Terra"; "Manila, Ariz." to "Mania"; "Mule, Ariz." to "Muley"; "Shumway, Ariz." to "Shuma"; "Kofa, Ariz." to "Koffa"; "Hill Creek, Utah" to "Hills"; "Nebo, Utah" to "Nebos"; "Clear Lake, Utah" to "Clara"; "Arinosa, Utah" to "Aries"; "Fool Creek, Utah" to "Fools"; "Ioka, Utah" to "Iokas"; "Greenwood, Utah" to "Grees"; "Ferron, Utah" to "Feron"; "Lake Shore, Utah" to "Lakes"; "Corrington, Utah" to "Coing"; "La Salle, Utah" to "LaSal"; "Spring Bay Utah" to "Spree"; "White Cliffs, Utah" to "White"; "Grafton, Nev." to "Graft"; "Bristol, Nev." to "Brisk"; "El Dorado, Nev." to "Dodie"; "Connors Pass, Nev." to "Conns"; "Tenabo, Nev." to "Tenbo"; "Adamsville, Nev." to "Adapt"; "Wheeler, Nev." to "Whell"; "Delaplain, Nev." to "Della"; "Coleman, Nev." to "Coles"; "Fenner, Calif." to "Fenny"; "Morrow, Calif." to "Morro"; "Mesquite, Calif." to "Mesic"; "Kirkwood, Calif." to "Kirin"; "Virginia, Calif." to "Virga"; "Rosi, Calif." to "Rosin"; "Malo, Calif." to "Perch"; "Rabbit, Calif." to "Rabbit"; "Buckhorn, Calif." to "Bucko"; "Mayfair, Calif." to "Mayan"; "Gateway Pine, Calif." to "Gates"; "Manteca, Calif." to "Manca"; "Palisades, Calif." to "Palis"; "Stanislaus, Calif." to "Stani"; "Beaumont, Calif." to "Beaut"; "Easton, Calif." to "Easta"; "Wild Rose, Calif." to "Wildy"; "Chubbock, Calif." to "Chubs"; "Sawmill, Calif." to "Sawed"; "Washington, Calif." to "Washy"; "Hill, Calif." to "Hilly"; "Likely Pines, Calif." to "Liked"; "Redwood, Calif." to "Redoo"; "Cypress, Calif." to "Ceres"; "Apricot, Calif." to "Fruit"; "Maple, Calif." to "Leafs"; "Yucca, Calif," to "Yucan";

§95.6003 VOR FEDERAL AIRWAY 3

Is amended to read in part:

FROM	TO	MEA
Ipswich INT, Mass. *1500–MOCA	Pease, N.H. VOR	*2000

§95.6006 VOR FEDERAL AIRWAY 6

Is amended to read in part:

FROM	TO	MEA
Bay INT, Ohio *2200–MOCA	Cleveland, Ohio VOR	*3000

§95.6009 VOR FEDERAL AIRWAY 9

Is amended to delete:

FROM	TO	MEA
St. Louis, Mo. VOR Via W alter. *2000–MOCA	Capitol, Ill. VOR Via W alter.	*2600

§95.6027 VOR FEDERAL AIRWAY 27

Is amended to read in part:

FROM	TO	MEA
Henderson INT, Calif.	Goleta INT, Calif.	5000
Goleta INT, Calif	Gaviota, Calif. VOR	6000

§95.6030 VOR FEDERAL AIRWAY 30

Is amended to read in part:

FROM	TO	MEA
Bay INT, Ohio *2200–MOCA	Cleveland, Ohio VOR	*3000

§95.6039 VOR FEDERAL AIRWAY 39

Is amended to read in part:

FROM	TO	MEA
Martinsburg, W.Va. VOR *3900–MOCA	Harney INT, Md.	*5000
Harney INT, Md. *3200–MOCA	Delroy INT, Pa.	*4000
Delroy INT, Pa. *2600–MOCA	Lancaster, Pa. VOR	*3000

§95.6050 VOR FEDERAL AIRWAY 50

Is amended to read in part:

FROM	TO	MEA
Arcola INT, Ill. *2200–MOCA	Terre Haute, Ind. VOR	*2500

§95.6052 VOR FEDERAL AIRWAY 52

Is amended to delete:

FROM	TO	MEA
Quincy, Ill. VOR Via N alter. *2000–MOCA	St. Louis, Mo. VOR Via N alter.	*2600

§95.6126 VOR FEDERAL AIRWAY 126

Is amended to read in part:

FROM	TO	MEA
Bay INT, Ohio *2200–MOCA	Cleveland, Ohio VOR	*3000

§95.6143 VOR FEDERAL AIRWAY 143

Is amended to read in part:

FROM	TO	MEA
Martinsburg, W.Va. VOR *3900–MOCA	Harney INT, Md.	*5000
Harney INT, Md. *3200–MOCA	Delroy INT, Pa.	*4000
Delroy INT, Pa. *2600–MOCA	Lancaster, Pa. VOR	*3000

§95.6152 VOR FEDERAL AIRWAY 152

Is amended to read in part:

FROM	TO	MEA
St. Petersburg, Fla. VOR Via S alter. *1600–MOCA	Lakeland, Fla. VOR Via S alter.	*2000

§95.6229 VOR FEDERAL AIRWAY 229

Is amended to read in part:

FROM	TO	MEA
Kennedy, N.Y. VOR	Duffy INT, N.Y.	1800
Duffy INT, N.Y.	Oakwood INT, N.Y.	2000
Oakwood INT, N.Y.	Belle Terre INT, N.Y.	2000

§95.6448 VOR FEDERAL AIRWAY 448

Is amended to read in part:

FROM	TO	MEA
Simcoe INT, Wash.	*Yakima, Wash. VOR. SW-bound	12000
	NE-bound	6300
*9600–MCA Yakima VOR, SE-bound		
Yakima, Wash. VOR Via S alter.	Outlook INT, Wash. Via S alter.	5000

§95.6469 VOR FEDERAL AIRWAY 469

Is amended to read in part:

FROM	TO	MEA
Lynchburg, Va. VOR	Gotts Mills INT, Va.	4700
Gotts Mills INT, Va.	Arcadia INT, Va.	5400
Arcadia INT, Va.	INT 352 M rad Lynchburg VOR & 255 M rad Montebello VOR	*6000
*5400–MOCA		
INT 352 M rad Lynchburg VOR & 255 M rad Montebello VOR *6400–MOCA	Elkins, W.Va. VOR	*8000

§95.7011 JET ROUTE NO. 11 is amended to delete:

FROM	TO	MEA	MAA
U.S. Mexican Border	Tucson, Ariz. VORTAC	18000	45000

§95-7092 JET ROUTE NO. 92 is amended by adding:

FROM	TO	MEA	MAA
Tucson, Ariz. VORTAC	U.S. Mexican Border	18000	45000

§95.7148 JET ROUTE NO. 148 is amended by adding:

FROM	TO	MEA	MAA
Coaldale, Nev. VORTAC	Delta, Utah VORTAC	27000	45000

§95.7581 JET ROUTE NO. 581 is amended to read in part:

FROM	TO	MEA	MAA
Kennedy, N.Y. VORTAC	INT 053 M rad Kennedy VORTAC & 250 M rad Putnam VORTAC	19000	45000
INT 053 M rad Kennedy VORTAC &250 M rad Putnam VORTAC	Putnam, Conn. VORTAC	18000	45000

(Secs. 307, 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348, 1510.)

Issued in Washington, D.C., on November 6, 1973.

JAMES M. VINES,
Chief, Aircraft Programs Division.

[FR Doc.73-24076 Filed 11-13-73;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket C-2468]

PART 13—PROHIBITED TRADE PRACTICES

M. Kowlowitz, Inc., et al.

Subpart—Furnishing false guaranties § 13.1053 *Furnishing false guaranties:* 13.1053-35 Fur Products Labeling Act. Subpart—Invoicing products falsely § 13.1108 *Invoicing products falsely:* 13.1108-45 Fur Products Labeling Act. Subpart—Misbranding or mislabeling § 13.1185 *Composition:* 13.1185-30 Fur Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212-30 Fur Products Labeling Act; § 13.1255 *Manufacture or preparation:* 13.1255-30 Fur Products Labeling Act. Subpart—Misrepresenting oneself and goods—goods: § 13.1590 *Composition:* 13.3590-30 Fur Products Labeling Act; § 13.1623 *Formal regulatory and statutory requirements;* 13.1623-30 Fur Products Labeling Act; § 13.1685 *Nature:* 13.1685-35 Fur Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f.) [Cease and desist order M. Kowlowitz, Inc., et al., Docket No. C-2468, October 17, 1973.]

In the Matter of M. Kowlowitz, Inc., et al., a Corporation, and Benjamin Kowlowitz and Murray Kowlowitz, Individually and as Officers of Said Corporation

Consent order requiring a New York City manufacturer of fur products, among things to cease falsely invoicing and misbranding or mislabeling its fur products, and furnishing false guaranties.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That M. Kowlowitz, Inc., a corporation, its successors and assigns, and its officers, and Benjamin Kowlowitz and Murray Kowlowitz, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as the terms "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding any fur product by:

1. Representing directly or by implication on a label that the fur contained in such fur product is natural when such fur is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

2. Failing to affix a label to such fur product showing in words and in figures plainly legible all of the information required to be disclosed by each of the subsections of Section 4(2) of the Fur Products Labeling Act.

B. Falsely or deceptively invoicing any fur product by:

1. Failing to furnish an invoice, as the term "invoice" is defined in the Fur Products Labeling Act, showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of Section 5(b)(1) of the Fur Products Labeling Act.

2. Representing directly or by implication on an invoice that the fur contained in such fur product is natural, when such fur is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

It is further ordered, That M. Kowlowitz, Inc., a corporation, its successors and assigns, and its officers, and Benjamin Kowlowitz and Murray Kowlowitz, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from furnishing a false guaranty that any fur product is not misbranded, falsely invoiced or falsely advertised when the respondents have reason to believe that such fur product may be introduced, sold, transported, or distributed in commerce.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this Order to each of its operating divisions.

It is further ordered, That the individual respondents named herein promptly

notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment in which they are engaged as well as a description of their duties and responsibilities.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: October 17, 1973.

By the Commission.

CHARLES A. TOBIN,
Secretary.

[FR Doc.73-24269 Filed 11-13-73;8:45 am]

[Docket C-2467]

PART 13—PROHIBITED TRADE PRACTICES

Morris Bader & Sons, Corp., et al.

Subpart—Furnishing false guaranties: § 13.1053 *Furnishing false guaranties;* 13.1053-35 Fur Products Labeling Act. Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* 13.1108-45 Fur Products Labeling Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition;* 13.1185-30 Fur Products Labeling Act: § 13.1212 *Formal regulatory and statutory requirements* 13.1212-30 Fur Products Labeling Act; § 13.1255 *Manufacture or preparation;* 13.1255-30 Fur Products Labeling Act. Subpart—Misrepresenting oneself and goods—goods § 13.1590 *Composition;* 13.1590-30 Fur Products Labeling Act § 13.1623 *Formal regulatory and statutory requirements;* 13.1623-30 Fur Products Labeling Act; § 13.1685 *Nature;* 13.1685-35 Fur Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements;* 13.1852-35 Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Morris Bader & Sons, Corp. et al., New York, N.Y., Docket C-2467, October 17, 1973]

In the Matter of Morris Bader & Sons, Corp. et al., a Corporation, and Leonard Bader and George Bader, Individually and as Officers of Said Corporation

Consent order requiring a New York City retailer of fur products, among other things to cease falsely invoicing and misbranding or mislabeling its fur products, and furnishing false guaranties.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That Morris Bader & Sons, Corp., a corporation, its successors, and assigns, and its officers, and Leonard Bader and George Bader, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation, or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as the terms "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding any fur product by:

1. Representing directly or by implication on a label that the fur contained in such fur product is natural when such fur is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

2. Failing to affix a label to such fur product showing in words and in figures plainly legible all of the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act.

B. Falsely or deceptively invoicing any fur product by:

1. Failing to furnish an invoice, as the term "invoice" is defined in the Fur Products Labeling Act, showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of section 5(b)(1) of the Fur Products Labeling Act.

2. Representing directly or by implication on an invoice that the fur contained in such fur product is natural, when such fur is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

It is further ordered, That Morris Bader & Sons, Corp., a corporation, its successors, and assigns, and its officers, and Leonard Bader and George Bader, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from furnishing a false guaranty that any fur product is not misbranded, falsely invoiced or falsely advertised when the respondents have reason to believe that such fur product may be introduced, sold, transported, or distributed in commerce.

It is further ordered, That the respondnotify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this Order to each of its operating divisions.

It is further ordered, That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment in which they are engaged as well as a description of their duties and responsibilities.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

Issued: October 17, 1973.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.73-24268 Filed 11-13-73;8:45 am]

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT—FEDERAL HOUSING COMMISSIONER (FEDERAL HOUSING ADMINISTRATION), DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-73-230]

PART 275—LOW RENT PUBLIC HOUSING

Prototype Cost Limits for Public Housing

In the FEDERAL REGISTER issued for Friday, June 8, 1973, (38 FR 15051), prototype per unit cost schedules were published pursuant to section 15(5) of the Housing and Urban Development Act of 1937. Consideration of subsequent factual project cost data received from the San Antonio Area Office indicates that certain prototype per unit cost schedules should be revised for the State of Texas.

Inasmuch as the new prototype cost schedules cannot be utilized until the costs themselves become effective by publication in the FEDERAL REGISTER, continuity of contract approvals requires the immediate publication of this material. Accordingly, it is impracticable to provide notice and public procedure with respect to those cost limits in accordance with the Department's adopted Publications Policy (24 CFR, Part 10), and good cause exists for making them effective on the date of publication in the FEDERAL REGISTER.

For the foregoing reasons the following changes are made to the schedules as originally published at 38 FR 15051, June 8, 1973:

1. On page 15065 delete the San Antonio, Texas schedule under Region VI and substitute in lieu thereof the revised prototype per unit costs shown on the table below, entitled Prototype Per Unit Cost Schedule (Sec. 7(d) of Dept. of HUD Act, 42 U.S.C. 3535(d)).

Effective date. This amendment is effective on November 14, 1973.

SHELDON B. LUBAR,
Assistant Secretary-Commissioner.

PROTOTYPE PER UNIT COST SCHEDULE

REGION VI

	Number of bedrooms						
	0	1	2	3	4	5	6
San Antonio, Tex.:							
Detached and semidetached	7,650	9,200	11,400	13,600	16,350	18,200	18,950
Row dwellings	7,250	8,800	10,850	12,950	15,550	17,350	18,050
Walk-up	6,550	8,300	10,400	12,350	14,400	15,750	16,550
Elevator-structure	11,700	13,600	17,300				

[FR Doc.73-24288 Filed 11-13-73;8:45 am]

Title 29—Labor

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

PART 1907—ACCREDITATION OF TESTING LABORATORIES

Notice of Public Hearing

On September 11, 1973 there was published in the FEDERAL REGISTER a new Part 1907 of Title 29 of the Code of Federal Regulations (38 FR 25150), containing criteria and procedure for accrediting testing laboratories (38 FR 25150). The regulation was adopted pursuant to section 8(g) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1600; 29 U.S.C. 657), section 107 of the Contract Work Hours and Safety Standards Act (83 Stat. 96; 40 U.S.C. 333) and Secretary of Labor's Order No. 12-71 (36 FR 8754). Because of the need to make the accreditation program effective as soon as possible, the regulation was adopted without the benefit of public comments. However, interested persons were invited to comment in writing on the regulation, by October 31, 1973, with a view to changing the regulation if the submissions should warrant it.

Numerous written comments have been received pursuant to the invitation and several requests for a hearing have been made. It now appears that the regulation has generated more interest than was anticipated and that there may be some misunderstandings about its effect. Specifically, the independence criteria set forth in 29 CFR 1907.11(h) has been criticized as being unnecessarily exclusive of many laboratories. Also, it appears that some have misread the regulation as requiring accreditation of any laboratory testing products for safety, although the regulation is intended for the accreditation of only those laboratories desiring accreditation to test products required to be approved by occupational safety and health standards, and only with respect to such products. Therefore, because of the numerous requests for a hearing and the apparent misunderstandings generated by the regulation, it is concluded that a public hearing concerning the accreditation regulation should be provided.

Interested persons are encouraged to submit written data, views, and arguments, concerning the regulation published at 38 FR 25150, to the Office of Standards, Room 509, 400 First Street NW., Washington, D.C. 20210, before December 14, 1973. Any written submissions received will be available for inspection and copying at the Office of Standards.

Accordingly, pursuant to authority in section 8(g) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1600; 29 U.S.C. 657), section 107 of the Contract Work Hours and Safety Standards Act (83 Stat 96; 40 USC 333), 5 USC 552, and Secretary of Labor's Order No 12-71 (36 FR 8754), an informal public hearing concerning the accreditation regulation published on September 11, 1973, at 38 FR 25150 will be held beginning at 10 a.m. on Wednesday January 9, 1974, in Room 107 A, B, and C of the U.S. Department of Labor, 14th Street and Constitution Avenue NW., Washington, D.C. The hearing will be conducted by an Administrative Law Judge assigned by the Chief Administrative Law Judge of the Department of Labor. Beginning at 9:30 a.m. on January 9 1974, a prehearing conference will be held in order to establish the order and time for the presentation of statements and settle any other procedural matters relating to the proceeding. All documents that are intended to be submitted for the record at the hearing should be submitted in duplicate. The hearing will be reported verbatim, and a transcript shall be available to any interested person on such terms as the Administrative Law Judge may provide.

Persons desiring to appear at the hearing must file a notice of intention to appear with the Office of Standards, Room 509, 400 First Street NW., Washington, D.C. 20210, before December 14, 1973. The notice must contain the following information:

(1) The name and address of the person to appear;

(2) The capacity in which he will appear;

(3) The approximate amount of time needed for the presentation;

(4) The specific provision of the regulation which will be addressed or which is objected to;

(5) The position that will be taken with respect to each provision addressed;

(6) A summary of the evidence or testimony, with respect to each provision, proposed to be adduced at the hearing.

The Administrative Law Judge shall have all the powers necessary or appropriate to conduct a fair and full hearing, including the powers:

(1) To regulate the course of the proceeding;

(2) To dispose of procedural requests, objections, and comparable matter;

(3) To confine the presentations to the issues relevant to the proceeding;

(4) To regulate the conduct of those present at the hearing by appropriate means;

(5) In his discretion, to permit cross-examination of any witness on crucial issues;

(6) In his discretion, to keep the record open for a reasonable, stated time to receive written recommendations, and supporting reasons, and additional data, views, and arguments from any person who has participated in the oral proceedings.

Within a reasonable period of time after the completion of the public hearing or posthearing comment period, if provided, the Administrative Law Judge shall certify the entire record of this proceeding to the Assistant Secretary of Labor, including the transcript thereof, together with written submissions received concerning the accreditation regulation, exhibits filed during the hearing, and any posthearing comments.

The accreditation regulation will be reviewed in the light of all oral and written submissions received as part of the record in this proceeding and will be changed appropriately, if warranted.

(Sec. 8, Pub. L. 91-596, 84 Stat. 1600 (29 U.S.C. 657); sec. 107, Pub. L. 91-54, 83 Stat. 96 (40 U.S.C. 333); 5 U.S.C. 552; Secretary of Labor's Order No. 12-71, 36 FR 8754)

Signed at Washington, D.C., this 9th day of November 1973.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.73-24279 Filed 11-13-73;8:45 am]

Title 32—National Defense

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

SUBCHAPTER I—MILITARY PERSONNEL

PART 888—ENLISTMENT IN THE REGULAR AIR FORCE

This revision generally updates the requirements for enlistment in the Regular Air Force, clarifies terminology, incorporates various administrative changes and makes editorial corrections.

Part 888, Subchapter I of Chapter VII of Title 32 of the Code of Federal Regulations is revised to read as follows:

Sec.

Sec.
888.17 Airmen removed from Temporary Disability Retired List.
888.18 Restored Air Force prisoners.
888.19 Applicants whose last period of service was in officer status.
888.20 Officer appointees to the U.S. Air Force Academy.
888.21 Selected applicants to School of Military Sciences, Officer.
888.22 National Guard and Reserve members of the Armed Forces not on extended active duty.
888.23 National Guard and Reserve members of the Air Force on extended active duty.

AUTHORITY: 10 U.S.C. 8012, unless otherwise noted.

§ 888.0 Purpose.

(a) This part prescribes the eligibility requirements for enlistment (see § 888.1) in the Regular Air Force.

(b) Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 888.1 Definitions.

(a) *Active duty.* Full time duty in the active military service of the United States.

(b) *Active duty for training.* A tour of active duty for Reserve training under orders which provide for automatic reversion to the Air Reserve Forces not on active duty when the specified period of active duty is completed. Includes the tour of active duty for training performed by nonprior service appointees and enlistees, other short or special tours, and school tours.

(c) *Applicants.* All persons who apply for enlistment. If term applies to one sex only, the text will so state.

(d) *Armed Forces Examining and Entrance Stations (AFEES).* Facilities established for the purposes of conducting physical examinations, mental tests, administrative processing, enlisting, and transport of applicants enlisting in the Armed Forces.

(e) *Chargeable accessions.* Male enlistments or inductions in the active forces of any of the Armed Services, excluding aviation cadets, officer candidates, members of the Reserve Forces entering active duty, and persons exempt from induction under the Military Selective Service Act of 1967, as amended.

(f) *Classification and screening tests (Air Force Manual (AFM) 35-8).* Tests given to determine applicant's general level of intelligence, learning ability, and aptitude for training within specific job areas.

(g) *Consolidated Base Personnel Office (CBPO).* The single manager of base-level military personnel systems for all units being serviced—whether on base, geographically separated from the CBPO, or centralized in one location for maximum economy, efficiency, and service. It is the personnel staff for, and provides equal service to, all supported units.

(h) *Dependent.* Any person dependent upon the applicant either from a moral or legal standpoint. Applicant's legitimate children who live apart are dependents whether or not he is paying child support. Stepchildren in care of the applicant or his spouse are dependents regardless of whether or not adopted or receiving support from legal parent.

NOTE.—Except for traditionally clear cases of dependency, that is, spouse and natural legitimate children, recruiters will not give an opinion whether a particular person will qualify as an applicant's dependent if he enlists. If an applicant makes such an inquiry, the recruiter will obtain all available facts and evidence pertaining to the issue of dependency and forward the question to the nearest CBPO.

(i) *Enlistment.* Voluntary entry into military service in enlisted status from civilian status or military status other than as an airman of the Regular Air Force.

(j) *Extended active duty.* A tour of active duty, normally in excess of 90 days, performed by a Reservist for whom strength accountability changes from the Air Reserve Forces to the Regular Air Force.

(k) *High school graduate.* An individual who has completed high school as verified by documents listed below:

(1) High school diploma—day or night school.

(2) Official transcript of high school credits.

(3) Certificate of equivalence issued by Board of Education.

(4) Official statement by school officials that individual has sufficiently acceptable credits to be awarded a diploma.

(5) Diploma or certificate attesting to high school completion through Home Study School (correspondence) accredited by the Accreditation Commission of the National Home Study Council.

(6) Individuals who have received a high school equivalency certificate based upon successful completion of a General Education Development (GED) Test in States which have established procedures for this form of accreditation.

(7) Certificate showing completion of high school GED Test with minimum standard score of 35 on each component test or an average standard score of 45 or above for all five tests.

(l) *Nonprior service (NPS).* Persons who have not served a minimum period of six continuous months on active duty with the Armed Forces. Applicants separated as service academy cadets, aviation cadets, or Reservists covered by § 888.22 are considered NPS personnel for the purpose of this part.

(m) *Officer.* This term applies to a commissioned or warrant officer, except where "commissioned officer" is specified.

(n) *Prior service (PS)—Includes:* (1) Former members of the Armed Forces who served a continuous period of active duty for six months or more.

(2) Enlisted or former enlisted members of Reserve components of the Armed Forces who served a continuous period of active duty or active duty for training exceeding six months, except as provided in § 888.22(b).

(o) *Prior service (PS) required skills list.* Air Force specialty codes and grade limitations which the Air Force needs to meet its projected requirements.

(p) *Reenlistment Code (RE).* This code is used as a primary consideration in establishing the enlistment eligibility of an applicant with previous military service. An explanation of the code for former Air Force personnel is as follows:

(1) "NA"—Airman reenlisting within 24 hours or being released from involuntary recall to extended active duty.

(2) "1"—Applicant is eligibile for enlistment.

(3) "2"—Applicant is barred from enlistment by § 888.7.

(q) *United States.* In a geographical sense, the 50 States and the District of Columbia.

(r) *United States Air Force Recruiting Service.* All recruiting activities under the jurisdiction of the Air Force Air Training Command who are responsible for recruitment of personnel to meet programmed objectives.

(s) *Women in the Air Force (WAF).* As used in this part, the term applies to all women, with or without prior service, who enlist in the Air Force.

§ 888.2 Policy.

(a) *Secretarial authority.* The Secretary of the Air Force may deny enlistment to any individual although the applicant (see § 888.1) appears to meet the established criteria. The Secretary of the Air Force may also authorize waiver of, or exceptions to, the provisions of this part which do not recite or implement statutory requirements.

(b) *Privileged communications.* All letters, documents, and information pertining to applicants are privileged communications and will not be revealed to anyone not officially concerned. Derogatory information will not be released to the applicant. Additionally, release of mailing lists or rosters of military personnel, applicants, or dependents (see § 888.1) is prohibited.

(c) *Provision on confidentiality of information.* All information received from judicial authorities and probation officers, all character, police and employment references, and any other documents reflecting upon the character of the applicant are confidential in nature. Their source and contents will be treated accordingly and they will not be made available to anyone outside the United States Air Force Recruiting service (see § 888.1) except authorized Air Force investigative officials, and only to them provided its content is held in confidence and is not released to another agency outside the investigative channels. Recruiters will not divulge the nature or source of any adverse rating to prevent reflections on institutions, officials, or others who have made objective ratings.

(d) *Requests for recruiting material.* Recruiting material or information, regardless of the type of channel of communication, will not be sent to a civilian address in a foreign country.

(e) *Enlistment oath.* The oath of enlistment may be taken before any commissioned officer (see § 888.1) of any Armed Forces of the United States. Except in unusual circumstances, an active duty officer (preferably Air Force) in uniform will administer the oath.

(f) *Equal opportunity.* All persons, regardless of race, color, religion, sex, or national origin, will be accorded equal opportunity for enlistment.

§ 888.3 Citizenship requirements.

Applicant must be a citizen of the United States (see § 888.1) or possess a valid Form I–151, Immigration and Naturalization Service Alien Registration Receipt Card, as evidence of lawful entry into the United States for permanent residence.

§ 888.4 Physical standards.

(a) Regardless of examining location, the physical standards contained in Army Regulation 40–501 (Medical Service, Standards of Medical Fitness), chapter 2, apply to all chargeable accessions (see § 888.1).

(b) The physical standards for enlistment contained in Air Force Manual (AFM) 160–1 (Medical Examination and Medical Standards) apply to all applicants for enlistment other than chargeable accessions.

(c) The medical officer conducting the examination may accept as valid for enlistment for a period of one year:

(1) Reports of physical examinations given by AFEES (see § 888.1).

(2) Reports of Armed Forces separation physicals.

(3) Reports of physical examination given at the School of Military Sciences, Officer (SMSO), provided the date of examination is within 90 days from the date of application for SMSO.

(d) The only documents acceptable for verification of the physical qualifications are the Standard Form 88, Report of Medical Examination, and Standard Form 93, Report of Medical History.

(e) Examinees found medically disqualified may be considered for waiver when, in the opinion of the AFEES medical examining officer, the examinee is capable of effective performance of duty worldwide without compromising health or safety.

(f) The medical examining officer of AFEES will determine whether each medically disqualified male nonprior service (NPS) (see § 888.1), applicant is physically qualified under the Medical Remedial Enlistment Program (MREP). This program is limited to defects determined easily correctable within six weeks. Applicant must not have more than one of the following defects: hemorrhoids; undescended testicle, unilateral; varicocele hydrocele; hernia of the abdominal cavity; under minimum weight by not more than 10 percent; undescended testicle and inguinal hernia, same side; hydrocele and inguinal hernia, same side; orthopedic fixture at site of old fracture; deviated nasal septum; external otitis; or hyperdactylia (hands and feet).

(g) In all cases, except the underweight category, a medical consultation will be obtained to confirm diagnosis and determine if the defect can be surgically corrected.

§ 888.5 Age.

All applicants, except when otherwise specifically specified by Air Force requirements, are required to meet the standards of this section.

(a) For nonprior service, the minimum age is attainment of the 18th birthday for male applicants, and the 21st birthday for female applicants, and the maximum age limit for all applicants is less than the 28th birthday. NOTE.—Minimum age for enlistment in the Regular Air Force is 17 years for males and 18 years for females if Department of Defense (DD) Form 373, "Consent, Declaration of Parent or Legal Guardian" (for enlistment of a minor in the U.S. Armed Forces), is properly executed by parents or legal guardians. When place of enlistment is in a State that grants majority to females under age 21 and if female has reached majority and is at least 18 years of age, DD Form 373 is not required.

(b) For prior service (PS) (see § 888.1), the minimum age is attainment of the 18th birthday for both male and female applicants, and the maximum age limit is less than 28, when reduced by total active service. NOTE.—Applicants over 35 years of age must have at least three months prior service in the U.S. Air Force.

§ 888.6 Mental and education requirements.

(a) *Mental testing*—(1) *Passing scores.* All applicants must attain passing scores as prescribed by Air Force regulations and additionally qualify as outlined in paragraph (a) (2) of this section.

(2) *Additional qualifications and restrictions on enlistments.* Applicants enlisting for a specific aptitude or Air Force Specialty Code (AFSC) must attain the passing score prescribed for that aptitude area in AFM 35–1 (Military Personnel Classification Policy Manual (Officers, Warrant Officers, Airmen)). Applicants must be proficient in the English language as evidenced by minimum entry qualifying scores on English language versions of the Aircrew Classification Test (ACT), Airman Qualifying Examination (AQE), and Armed Forces Qualification Test (AFQT) or Armed Services Vocational Aptitude Battery (AFVAB).

(3) *Testing.* (i) The USAF Recruiting Service will administer the AFVAB, the AQE, or the Armed Forces Women's Selection Test (AFWST) to applicants prior to referring them to AFEES to take the AFQT or physical examination. The ACT scores may be accepted for enlistment of members of the Air Force Reserves or Air National Guard. Oversea applicants will be tested with the ACT. Applicants failing to achieve a qualifying score will be deferred from enlistment. The Recruiting Service, when authorized, may establish and publish scores for deferment higher than the minimum scores.

(ii) The ASVAB, AQE, or ACT will not be administered to:

(*a*) Any applicant currently on active duty (AD) (see § 888.1) with another Armed Force.

(*b*) A high school student unless he is scheduled to graduate during the current school year or is tested under the High School Testing Program.

(iii) The Defense Language Aptitude Test (DLAT) will be administered by AFEES to individuals desiring to be considered for a guaranteed job in certain AFSCs. A minimum score of 80 on the general aptitude index of the AQE, ASVAB, or ACT is required. Eligible applicants will be identified to the AFEES for DLAT by the Air Force AFEES Liaison Noncommissioned Officer.

(4) *Retesting.* (i) Applicants may be retested with the AQE/ASVAB one year after the date of the first test. Only one retest is authorized. Scores attained on the latest testing will be used for enlistment. The Air Force Air Training Command may approve individual retests six months after initial test in accordance with AFM 35–8 (Air Force Military Personnel Testing System) (see § 888.1).

(ii) An applicant qualified on the ASVAB, ACT, or AQE may be retested with the AFQT/AFWST after successfully completing the Job Corps Training Program. A Certificate of Achievement Form will be accepted as evidence of completion of training. Also, an individual who submits a certificate or evidence of having completed a federally-sponsored education program subsequent to his failure of the AFQT/AFWST may be retested once.

(iii) Applicants, who have previously qualified on the ASVAB, ACT, or AQE for enlistment, may, upon special authorization, be retested once with alternate versions of the AFQT/AFWST if it is believed that the score on the initial test does not represent his true ability.

(b) *Conditions that bar enlistment.* (1) Intoxicated or under the influence of alcohol or drugs.

(2) Does not possess a Social Security Account Number.

(3) Conscientious objector or person with personal beliefs or convictions which preclude unrestricted assignment, regardless of Selective Service classification.

(4) Enlistment not clearly consistent with interest of national security under Air Force Regulation (AFR) 35–62 (Security Program).

(5) Questionable moral character, history of antisocial behavior, alcoholism, sexual perversion, having frequent difficulties with law enforcement agencies, history of psychotic disorders.

(6) Has moral disqualifications (see § 888.7(c)) or has been involved with narcotics, marijuana, or dangerous drugs (§ 888.7(d)), unless specific authority to enlist is granted (see note 1).

(7) Under restraint imposed by any civil court.

(8) Civil or criminal charges filed or pending against them by civil authorities.

(9) Relieved of criminal charges filed and pending on condition that he enlist.

(10) Male, 18–26 years of age not registered with Selective Service.

(11) Selective Service Registrant classified I–O, A–O, I–W, or IV–F (see notes 1 and 2).

(12) Under orders for induction (see note 3).

(13) Receiving disability compensation from any Federal or other agency.

NOTE.—1. For exceptions, see § 888.7.

2. Classification of IV–F because of a medical defect covered by MREP does not render an NPS individual ineligible to enlist. If an applicant previously classified IV–F presents documentary evidence that his medical problem has been resolved, he may be considered eligible for enlistment provided he is otherwise qualified.

3. An applicant may enlist provided enlistment is accomplished at least 10 days prior to the scheduled reporting date for induction.

(c) *Additional conditions barring enlistment of applicants with previous military service.* (1) Separated from the Air Force for a period of less than 93 days (see note 1).

(2) Separated from last period of service for unsuitability, unfitness, disloyalty, or not recommended for reenlistment.

(3) Separated with other than Honorable Discharge Certificate or with entry other than "Honorable" on the Armed Forces of the United States Report of Transfer or Discharge Form.

(4) Separated with discharge or conditions that are a bar to enlistment.

(5) Separated under AFM 39–10 (Separation Upon Expiration of Term of Service, for Convenience of the Government, Minority, Dependency, or Hardship), while on Control Roster.

(6) Separated because of physical disability with or without severance pay.

(7) Separated and charged with time lost under 10 U.S.C. 972 (see note 2).

(8) Separated in pay grade E–3 or lower after six months or more AD except for certain specific separation designation numbers (SDN).

(9) Discharged prior to completion of six months' active Federal service (see notes 2 and 3).

(10) Separated as a United States Air Force Reserve member under AFR 45–43 (Administrative Discharge of Airman Members of the Air Force Reserve), paragraphs 11, 16, or 20 through 28.

(11) Separated and claims prior honorable service but lacks written evidence of such service.

(12) Has completed 20 or more years' active Federal service.

(13) Retired, eligible for retirement under any provision of law or retired and serving on extended active duty (EAD) (see § 888.1).

NOTES.—1. Reenlistment may be authorized at CBPOs (see § 888.1) in accordance with AFM 35–16 (Motivational Concept and Directives).

2. For exceptions see § 888.7.

3. Except those separated for minority (AFM–39–10, paragraph 3–21) or failure to complete SMSO (AFM 39–10, paragraph 3–8h), who will be given RE Code 1 (see § 888.1).

(d) *Education.* The minimum educational requirements for enlistment are as follows.

(1) A nonhigh school graduate NPS male applicant must score in mental category I, II, or III (AFQT 31–99).

(2) A 17-year-old NPS male applicant must be a high school graduate (§ 888.1) unless he scores in mental category I or II on the AFQT.

(3) A WAF (see § 888.1) applicant must be a high school graduate.

(4) A PS enlistee must be a high school graduate or have qualified on the General Educational Development (GED) Test.

§ 888.7 Obtaining specific authority for enlistment.

(a) *General information.* (1) This paragraph provides for an additional examination of the applicant whose eligibility for enlistment is in doubt because of:

(i) Reason for last separation from the Armed Forces;

(ii) Ability to support dependents on military pay; or

(iii) Possible moral disqualifications.

(2) When the request for specific authority is disapproved or denied, the applicant is then ineligible for enlistment. Applicants requiring specific authority to enlist are herewith advised that processing incident to determination of eligibility in no way obligates the Air Force; and therefore, applicant should not terminate present employment, dispose of personal property, or make any personal arrangement contingent upon the possibility of approval of request for waiver of condition or bar to enlistment.

(3) Under no circumstances may the statutory requirements for enlistment be waived.

(b) *Authorization required.* Fully justified requests may be submitted by the Air Force Air Training Command to enlist an applicant who was:

(1) Separated from the Air Force and charged with time lost under 10 U.S.C. 972.

(2) Separated with honorable discharge under former AFR 39–10, AFR's 39–11, 39–14, or AFM 39–10 with DD Form 214 (Armed Forces of the U.S. Report of Transfer Discharge), containing certain specific RE codes.

(3) Separated with honorable discharge from branches other than the Air Force but whose DD Form 214/215 contains an RE code that is a bar to enlistment. Discharge must not have been due to punitive or administrative actions that involve defective character traits or nonperformance of duty. An evaluation will be made and only the requests for waiver of RE code on applicants who are otherwise fully qualified for enlistment and who meet all other requirements of the PS program will be forwarded. For example, age, active service, mental, physical, moral, and skill requirements must be met without waiver.

(4) Separated under AFM 39–10, paragraph 3–8m, and coded RE–1.

(5) Separated for dependency or hardship reasons. The following information must be included to be forwarded with the request:

(i) Statement of applicant that the hardship or dependency condition is permanently terminated.

(ii) Proof of the form of affidavits or sworn statements that the hardship or dependency condition has ended. These statements may be made by the applicant or by other members of his community familiar with the home conditions involved.

(iii) The burden of furnishing proof that the conditions at the time of discharge have changed is upon the applicant.

(c) *Uniform guidelines of typical offenses.*—(1) *Minor traffic offenses*: Blocking or retarding traffic, careless driving, crossing yellow line, etc. Offenses of a similar nature and traffic offenses, treated as such by local law enforcement agencies, will be considered as minor.

(2) *Minor non-traffic offenses*: Abusive language under circumstances to provoke breach of peace, carrying concealed weapon (other than firearm), curfew violation, etc. Offenses of a similar nature will be considered as minor. In doubtful cases, the following rule will be applied: If the maximum confinement under local law if four months or less, the offense will be treated as minor.

(3) *Other (nonminor) misdemeanors:* Adultery, assault consummated by battery, bigamy, etc. Offenses of comparable seriousness will be considered as nonminor misdemeanors. In doubtful cases, the following rule will apply: If the maximum confinement under local law exceeds four months but does not exceed one year, the offense will be treated as a nonminor misdemeanor.

(4) *Felonies:* Aggravated assault; arson; breaking and entering with intent to commit felony; etc. Offenses of comparable seriousness will be considered as felonies. In doubtful cases the following rule will apply: If maximum confinement under local law exceeds one year, the offense will be treated as a felony.

(d) *Accession of military personnel through original enlistment/appointment* (see § 888.1). Illegal drug usage affects enlistment/appointment eligibility as follows:

(1) An applicant is ineligible for enlistment/appointment if he has:

(i) Ever used LSD;

(ii) Ever illegally used narcotics or dangerous drugs;

(iii) Ever been a supplier or casual supplier of narcotics, dangerous drugs, or marijuana; or

(iv) Illegally used marijuana more than four times or at any time in the last three months.

(2) Persons who have experimented with marijuana are not normally eligible for flying training. United States Air Force Academy applicants' requests for individual waiver for flying training will be considered by the Air Force Academy Director of Physical Standards. All other requests for waiver will be considered by the Air Force Military Personnel Center

provided the applicants have not experimented with marijuana during the last 12 months.

§ 888.8 Applicability of the programs.

Sections 888.9 through 888.16 outline the programs for enlistment in the Regular Air Force and apply to all personnel enlisting unless otherwise specified.

§ 888.9 Terms of enlistment.

(a) The Air Force has various terms of enlistment to meet the desires of the individual and the needs of the Air Force. The number of years in the enlistment period is determined by the option which the applicant qualifies for and selects. More guarantees and inducements are available to an applicant enlisting for the longer period.

(b) Enlistment for all applicants is for four year terms except when:

(1) Specifically directed otherwise.

(2) Enlistment is accomplished under special limited programs announced by the Air Force Military Personnel Center.

§ 888.10 Date of rank.

The date of rank for all enlistees, except when specified otherwise, is the date of enlistment into the Regular Air Force.

§ 888.11 Preenlistment security investigation.

The completion of a preenlistment security investigation, under certain circumstances may be required, before applicant is eligible for enlistment. The normal time required to complete a security investigation is 60 to 120 days; additional time may be necessary if applicant has resided for an extended period of time or has near relatives currently residing in a communist-oriented country.

§ 888.12 Nonprior service program.

The provisions of this program apply to all NPS applicants regardless of the program for which they enlist.

(a) Subject to the restriction of the established numerical objectives of the enlistment programs, enlistment priority will be given to an NPS applicant who is:

(1) Authorized enlistment by HQ USAF either for a class of applicants or by individual letter of specific authority to enlist.

(3) Authorized enlistment in pay grade E-2 in accordance with paragraph (d) of this section.

(4) A high school graduate or has attained a higher educational level.

(b) Nonprior service male applicants who are found disqualified on AFQT for enlistment at the AFEES are required to take the regular physical examination given to all inductees or enlistees.

(c) All enlistees will be assigned to the School of Military Science, Airman (SMSA).

(d) The grade determination for NPS enlistees is pay grade E-2 (see note) if applicant:

(1) was credited with over 90 days' AD service and last separated in pay grade E-2 or higher.

(2) presents General Billy Mitchell Award Certificate; letter from Civil Air Patrol (USAF); or letter from Civil Air Patrol unit commander showing successful completion of the Civil Air Patrol Training Program.

(3) has completed two or more years of college Reserve Officers' Training Corps (ROTC) and possesses a letter of recommendation from the Professor of the appropriate Army, Navy, or Air Force ROTC unit.

(4) has satisfactorily completed the entire high school junior ROTC program, is a high school graduate, and presents official certificate of completion issued by the Armed Forces conducting the program.

(5) is a Service Academy ex-cadet with over 90 days' service.

If paragraphs (d)(1) through (5) of this section do not apply then grade authorized is pay grade E-1.

NOTE.—Documents presented after enlistment is completed may not be used as a basis for changing the authorized enlistment grade.

(e) Enlistment programs such as the Air Forces Band or MREP may be implemented to augment the normal NPS enlistment program.

(f) Oversea CBPO's cannot guarantee an applicant an assignment into a specific aptitude area or AFSC. That classification will be accomplished at the Air Force Military Training Center based on his qualifications and desires and Air Force needs.

(g) Oversea CBPO's are not authorized to enlist an applicant for any term of enlistment except four years.

§ 888.13 Enlistment of NPS personnel for Air Force Bands.

An applicant for an Air Force band, otherwise qualified for enlistment, is required to establish instrument or band qualifications prior to enlistment. The band director will audition applicants according to AFR 39-61 (Airman Evaluation in the Band Career Field).

(1) If applicant is proficient on an instrument for which a requirement exists he should consult one of the following band directors:

Alabama, Maxwell Air Force Base 36112.
Alaska, Elmendorf Air Force Base 99506.
Arizona, Luke Air Force Base 85301.
California, March Air Force Base 92508.
Colorado, Ent Air Force Base 80912; United States Air Force Academy 80840.
District of Columbia, Bolling Air Force Base 20332.
Florida, MacDill Air Force Base 33608.
Georgia, Robins Air Force Base 31093.
Hawaii, Hickam Air Force Base 96553.
Illinois, Chanute Air Force Base 61866; Scott Air Force Base 62225.
Louisiana, Barksdale Air Force Base 71110.
Massachusetts, Westover Air Force Base 01022.
Mississippi, Keesler Air Force Base 39534.
Nebraska, Offutt Air Force Base 68113.
Ohio, Wright-Patterson Air Force Base 45433.
Texas, Lackland Air Force Base 78236; Sheppard Air Force Base 76311.
Virginia, Langley Air Force Base 23365.
Washington, McChord Air Force Base 98438.

(2) All expenses in connection with preenlistment auditioning must be paid by the applicant.

(3) He may volunteer for assignment to a specific Air Force band or any Air Force band except the U.S. Air Force Band, Headquarters Command, USAF, Bolling Air Force Base, Washington, D.C.

§ 888.14 Medically Remedial Enlistment Program.

Nonprior service male personnel who meet the special medical standards in § 888.4 may enlist in MREP if qualified in accordance with this section and other established Air Force regulations. The AFEES Medical Examining Officer will determine whether the applicant is medically qualified for the MREP.

(a) Upon receipt if certificate of qualification for MREP from AFEES, eligibility will be determined to enlist based on the following:

(1) Applicant must be fully qualified for enlistment other than medically. Additionally, he must score 31 or higher on the AFQT.

(2) Applicant must agree to undergo therapeutic procedures necessary to remedy his medical condition.

(3) Approval by the Air Force Air Training Command is received.

(b) Defects occurring or discovered after enlistment:

(1) If an airman has a medical defect that occurs or is discovered during basic military training, his enlistment contract may be changed to enlistment under the MREP. The medical officer of the basic military training activity is responsible for identifying the basic airmen eligible for MREP. The director of base medical services (DBMS) will explain to the airman the therapeutic procedures necessary to correct the defect. The airman may either agree to undergo the therapeutic procedures or have his case considered by a medical board which will make recommendations concerning disposition. If airman is under 18 years of age, parental or guardian approval, in writing, is required.

§ 888.15 Prior service program.

This section applies to the enlistment of all PS personnel in the Regular Air Force except when specified otherwise by pertinent Air Force directives. Enlistment of PS personnel in the Air Force is extremely selective because of limited yearly quotas.

(a) *Grade determination.* Applicants authorized pay grades E-6 or E-7 may not enlist for vacancies below the 7-level skill. An applicant authorized a pay grade lower than E-5 may not enlist for a 7-level skill.

(b) *Documentary verification.* Prior to the enlistment of an applicant who was previously a member of an Armed Force or Reserve Component thereof, documentary verification of this service must be furnished.

(c) *Skill determination.* Prior service applicants must possess a Primary Air Force Specialty Code (PAFSC) that is on the PS Required Skills List (see

§ 888.1). Further, such applicants must have the specified total active federal military service (TAFMS) required for that skill. If applicant is not qualified by these criteria, two options are available:

(1) Enlistment in a second AFSC, if qualified, and if the AFSC is on the PS Required Skills List, or

(2) Enlistment to retrain into a needed skill either through technical training or on-the-job training.

NOTE.—AFSC or assignment for which applicant is enlisting requires a security clearance, evidence of previous security clearance is required prior to enlistment.

(d) *Enlistment for a skill shown on the Prior Service Required Skills List.* Once applicant has been qualified and has the skill and is in the year-group shown on the PS Required Skills List, the Accession Control Center must be contacted for assignment and specific enlistment authorization.

(e) *Enlistment for formal training.* Applicant must:

(1) Not have an AFSC or job skill which converts to an AFSC on the PS Required Skills List or not have served in the AFSC for which enlisting for three or more years prior to date of separation.

(2) Meet all prerequisites for airman basic resident course in accordance with AFM 50–5 (USAF Formal Schools Catalog).

(3) Agree in writing to accept results of retention action if he fails to successfully complete the technical training course.

(f) *Enlistment for on-the-job retraining.* (Former Air Force members only.) Applicant may enlist for OJT retraining in certain specific category skills provided he:

(1) Possesses an AFSC on the PS Required Skills List but does not desire to enlist in that specialty, or AFSC is not on Required Skills List or does not meet total active Federal military service (TAFMS) but does meet TAFMS for skill in which retraining.

(2) Agrees to accept the grade authorized.

(3) Retrains into a skill shown on the PS Required Skills List.

(4) Accepts assignment to a unit that has a requirement for the AFSC in which enlisting.

(g) *Priority for enlistment of prior service applicants.*

(1) With regard to the PS Required Skills List or PS quota provided they:

(i) Are airmen removed from the Temporary Disability Retired List (TDRL) and authorized to return to AD.

(ii) Are authorized to enlist by a letter issued by the Air Force Military Personnel Center.

(iii) Are enlisted women separated for pregnancy and submit application prior to first anniversary of their date of separation. Quota must be available.

(2) Applicants who possess a skill shown on the PS Required Skills List.

(3) Former military members who possess a skill convertible to an AFSC on the PS Required Skills List.

(4) Former military members enlisting for retraining.

§ 888.16 Female nonprior service program.

Female applicants are authorized enlistment in all programs prescribed by §§ 888.2 through 888.15.

(a) Applicant must be qualified in accordance with §§ 888.3 through 888.7.

(b) Mental testing and completion of the moral prequalification actions must be accomplished prior to referral of the applicant to AFEES.

(c) AFM 160–1, Medical Examinations and Medical Standards, physical standards for enlistment apply.

(d) Seventeen-year old applicants may be processed for enlistment 180 days prior to high school graduation and her 18th birthday. Enlistment of a 17½-year-old applicant in the Delayed Enlistment Program (DEP) (see part 907 of this chapter), is authorized, provided the applicant will be 18 years of age on or before date of entry in the Regular Air Force.

(e) Oversea applicants will be processed in accordance with established Air Force procedures.

§ 888.17 Airmen removed from the Temporary Disability Retired List.

(a) A former airman removed (discharged) from the TDRL may enlist as prescribed, unless barred for conditions occurring subsequent to his placement on the TDRL.

(b) Applicants (including former airmen who have completed 20 or more years of active service and are eligible for retirement under AFR 35–7 (Service Retirements) may enlist through U.S. Air Force Recruiting Service or at any Air Force CBPO by presenting:

(1) Letter from Air Force Military Personnel Center authorizing enlistment.

(2) Special order announcing removal from TDRL and discharge.

(3) DD Form 214 issued at the time of placement on TDRL.

NOTE.—Applicants under paragraph (c) of this section will be enlisted at Air Force installations only.

(c) An airman who has completed the minimum requirement for voluntary retirement established by law and policy, and who is physically fit by having recovered from the condition for which placed on TDRL, but unfit by reason of a condition incurred while on TDRL or 60 days thereafter, may be enlisted provided he was removed from TDRL and discharged without severance pay. Such enlistment shall be consummated notwithstanding the fact that there is a nonservice-connected disqualifying disability and with the understanding that retirement for length of service will be accomplished as soon as practicable.

§ 888.18 Restored Air Force prisoners.

(a) Airmen who have committed infractions warranting administrative or disciplinary action will be rehabilitated and returned or restored to duty whenever reasonably possible, provided that in each case:

(1) The member is properly motivated for continued service;

(2) He is morally fit; and

(3) His return or restoration to duty will not adversely affect the esprit de corps or maintenance of good order and discipline.

(b) A "restored prisoner" is a former member of the Air Force discharged from the Air Force with a dishonorable discharge or bad conduct discharge who is permitted to enlist in the Air Force pursuant to the policy expressed in paragraph (a) of this section. Approval of restoration by competent authority constitutes a waiver of existing disqualifications for reenlistment. As these airmen in fact and in law enter upon a new enlistment, their eligibility for future enlistment is determined entirely by their service during such enlistment.

(c) Restored prisoners will be enlisted for terms of two years only.

§ 888.19 Applicants whose last period of service was in officer status.

(a) All former officers require special authorization to enlist. If currently serving on AD, an application should be submitted not later than 30 days prior to date of separation.

NOTE.—Former Air Force officers and nonactive duty officers who desire to enter AD in an officer status must apply to: Air Reserve Personnel Center/DPR, 3800 York Street, Denver, Colorado 80205.

(b) This paragraph applies only to former officers who served in the Regular Air Force as enlisted members and enlist within six months from date of separation:

(1) To qualify for enlistment applicant must:

(i) Have served on EAD as a reserve officer or have been discharged as an enlisted member to accept temporary appointment as an officer.

(ii) Not have had a break in service exceeding six months after separation as an airman. An officer relieved from active service and later recalled within six months will be considered to have had continuous service.

(iii) Not be an officer relieved from AD to await appellate review of sentence that includes dismissal or dishonorable discharge.

(iv) Have been separated with honorable discharge.

(v) Have approval from The Secretary of Air Force to enlist if separated with general discharge.

(2) Applicant is authorized to enlist in the grade determined by the appropriate provision listed as follows:

(i) Highest permanent enlisted grade held in the Regular Air Force immediately preceding discharge to serve on EAD as an officer.

(ii) Highest temporary enlisted grade held in the Regular Air Force for six or more months.

(iii) Sergeant (E–4) if not qualified for a high grade.

(3) Is not required to meet the PS program criteria and will be processed without regard to age, physical disqualification incurred in line of duty while in active military service or existing vacancy.

(4) Is entitled to date of rank in accordance with AFR 35–54 (Rank, Precedence, and Command).

(c) Other former Air Force officers, including Regular officers (twice passover) who resigned for the purpose of enlisting and reserve officers separated because of age, who enlist within 90 days from date of separation are:

(1) Not required to meet the PS program criteria.

(2) Entitled to date of rank in accordance with AFR 35–54.

(3) Authorized enlistment grade of Sergeant (E–4).

(d) Other former Air Force officers who are separated over 90 days (ineligible under paragraph (b) of this section) will be considered as PS personnel. The authorized pay grade is E–3 with date of rank as date of enlistment.

(e) Former officers ineligible to enlist are those who:

(1) Last served in a regular component of another Armed Force.

(2) Were reserve officers from other branches of the services.

(3) Were discharged with severance pay.

(4) Were separated or released from EAD for cause by the Secretary of the Air Force or in lieu of such action (including cases initiated under pertinent Air Force Regulations).

(5) Were separated with other than an Honorable Discharge Certificate or released from EAD with other than "Honorable" discharge, except for applicants covered by paragraph (b) of this section.

(6) Were separated because of failure for selection for promotion during the three year probationary period.

(7) Are eligible for retirement in officer status under any provision of law. (Applicants under paragraph (b) of this section and paragraph 9c(2) of AFR 36–12 (Administrative Separation of Commissioned Officers and Warrant Officers of the Air Force) are excluded from this restriction.)

§ 888.20 Officer appointees to the U.S. Air Force Academy.

(a) Qualifications and procedures for appointment to the U.S. Air Force Academy from quotas allocated to the Regular Air Force are prescribed in Part 901b of this chapter.

(b) Officer status of the applicant will be terminated prior to appointment.

(c) Processing. (1) Physical and mental testing are not required.

(ii) Department of Defense Forms 4 and 53, "Notification of Entry into Active Military Service," are the only forms required in connection with this enlistment. The applicant will be required to initial the following entry in item 56 of DD Form 4:

This airman was selected for appointment to the U.S. Air Force Academy.

(iii) Enlistees will sign the following statement and have it witnessed by the enlisting officer:

Upon acceptance of appointment as a cadet to the U.S. Air Force Academy effective _____, I understand that in accordance with the provisions of 10 U.S.C. 516, should my appointment be terminated by reasons other than acceptance of a commission in the Regular or Reserve component of the Armed Forces, or for physical disability, I will resume my enlisted status and complete the period of service for which I was enlisted and for which I have an obligation.

(iv) Grade and date of rank will be determined as outlined in § 888.19.

(v) Enlistees will be assigned in accordance with instructions from Headquarters, U.S. Air Force.

§ 888.21 Selected applicants to School of Military Sciences, Officer.

These are individuals who have successfully completed all qualifying examinations (see Part 902 of this chapter, USAF Officers' Training School—OTS) and have been notified in writing of selection to attend OTS by the Air Force Air Training Command. Except as prescribed in this section, processing is the same as for regular enlistees.

(a) Applicant who possesses a letter of selection may enlist if not disqualified by conditions which occurred or were discovered subsequent to the initial selection.

(b) Applicant must turn in a completed copy of the college transcript upon arrival at Lackland Air Force Base.

(c) Class assignment, reporting date, career field, and travel instructions will be issued by the Commander, Air Force Air Training Command.

§ 888.22 National Guard and Reserve members of the Armed Forces not on extended active duty.

(a) Personnel of the Reserve components will not be actively solicited to enlist in the U.S. Air Force. However, upon request, members will be furnished all the information they desire concerning enlistment in the Regular Air Force.

(b) Reservists whose total active service consists of an initial tour of active duty for training (ADUTRA) (see § 888.1) may enlist under the NPS program although their total active service exceeds six months.

(c) Airmen are not authorized to hold a Reserve commission or warrant in an Armed Force other than the Air Force. Applicant must contact the nearest Air Force Reserve unit to obtain information on procedures for transfers to the Air Force Reserve. Action must be completed prior to enlistment as all commissions and warrants are revoked automatically as of the date of enlistment.

(d) Upon completion of submission and required action on DD Form 368, "Request for Discharge or Clearance from Reserve Components," the applicant will sign the following statement on the reverse side of the form:

As of _____ I am not on extended active duty or active duty for training, nor have I been ordered to report for extended active duty within the next 60 days.

§ 888.23 National Guard and Reserve members of the Air Force on extended active duty.

(a) Identification. A reservist of the Air Force currently serving on EAD, except a previously retired airman, may request discharge for the purpose of immediate enlistment in the Regular Air Force provided he qualifies. An airman in this category is not required to have an AFSC on the PS Required Skills List.

(b) Qualifications. (1) Airman has served on current EAD tour for 12 months or longer.

(2) Applicant must be screened and selected for enlistment by special boards appointed by Wing/Base Commander. Decision of the appointing authority is final.

(3) Airman serving in pay grades E–8 or E–9 must have passed the USAF Supervisory Examination and enlist for a specific vacancy.

(c) The airman's performance to date and the recommendation of the Commander and immediate superior are the primary factors for selection.

(d) Other factors which will be considered are: grade/skill level, aptitudes, education, self-improvement efforts, training, growth potential, physical condition, history of humanitarian and/or personal problems, and other related information which could have a bearing on the selection or nonselection for enlistment.

(e) Grade and date of rank upon enlistment are the same as that at time of discharge.

By order of the Secretary of the Air Force.

STANLEY L. ROBERTS,
Colonel, USAF, Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc.73-24235 Filed 11-13-73;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 73-182R]

PART 127—SECURITY ZONES

New London Harbor, Conn.

On page 22980 of the FEDERAL REGISTER of August 28, 1973, and as corrected on page 23804 of the FEDERAL REGISTER of September 4, 1973, an amendment to Title 33 of the Code of Federal Regulations was proposed to establish two security zones on the Thames River at New London, Connecticut. Interested persons were given 30 days in which to submit comments concerning the proposed regulations.

The only comment received came from the National Oceanic and Atmospheric Administration, National Ocean Survey. Their comment noted that the longitude of 72°04'51.5" in Security Zone B was in error and should be corrected to read 72°04'53.3".

In consideration of the foregoing, the proposed regulations are adopted with the correction of the first longitude in Security Zone B and are set forth below.

Effective date. These amendments are effective on December 15, 1973.

Dated: November 7, 1973.

C. R. BENDER,
Admiral, U.S. Coast Guard
Commandant.

Part 127 of Title 33 of the Code of Federal Regulations is amended by adding a new § 127.305 to read as follows:

§ 127.305 New London Harbor, Connecticut.

(a) *Security Zones.* (1) *Security Zone A.*—The waters of the Thames River off State Pier enclosed by a line beginning at the midpoint of the southeast face of State Pier thence to latitude 41°21'24" N., longitude 72°05'21.2" W.; thence to latitude 41°21'26.2" N., longitude 72°05'19.3" W.; thence to latitude 41°21'34" N., longitude 72°05'18.1" W.; thence to latitude 41°21'37.4" N., longitude 72°05'21" W. (Buoy C 15); thence to latitude 41°21'37" N., longitude 72°05'25.1" W. (Winthrop Point Anchorage Buoy A); thence westerly to the shoreline at latitude 41°21'37" N., longitude 72°05'28" W.; thence along the shoreline and pier to the point of beginning.

(2) *Security Zone B.*—The waters of the Thames River west of the Electric Boat Division Shipyard enclosed by a line beginning at a point on the shoreline at latitude 41°20'27" N., longitude 72°04'53.3" W.; thence due west to latitude 41°20'27" N., longitude 72°05'-02" W.; thence to latitude 41°21'03" N., longitude 72°05'06.7" W.; thence easterly to a point on the shoreline at latitude 41°21'03" N., longitude 72°05'00" W.; thence along the shoreline to the point of beginning.

(b) *Special regulations.*—Section 127.15 does not apply to public vessels when operating in Security Zones A or B, or to vessels owned by, under hire to, or performing work for the Electric Boat Division when operating in Security Zone B.

(46 Stat. 220, as amended, sec. 1, 63 Stat. 503, sec. 6(b), 80 Stat. 937 (50 U.S.C. 191, 14 U.S.C. 91, 49 U.S.C. 1655(b)(1)) E.O. 10173, as amended; 3 CFR 1949–1953 Comp. 356, 778, 873, 3 CFR 1964–1965 Comp. 349, 33 CFR Part 6, 49 CFR 1.56(b).)

[FR Doc.73-24271 Filed 11-13-73;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

PART 85—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Miscellaneous Amendments; Correction

In FR Doc. 73-22970 appearing at page 30079 in the issue of Wednesday, October 31, 1973, make the following changes:

1. Directly after the flush paragraphs in §§ 85.074-23(a)(6)(vii) and 85.275-23(a)(6)(vii), the formula should read:

$$\% \text{ Eff.} = \frac{(v) - (iv)}{(vi) - (iv)} \times 100 \text{ percent (A)}$$

2. In the third and fifth lines of § 85.075-24(b)(16), the words reading "on" and "exhause", should read "one" and "exhaust" respectively.

3. Directly under the amendatory language in paragraph 24. in the middle column on page 30082, insert the following:

V_s = Volume of gas pumped by the positive-displacement pump, in cubic feet per revolution. This volume is dependent on the pressure differential across the positive displacement pump. See calibration techniques in Appendix III.

Title 49—Transportation

CHAPTER III—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER B—MOTOR CARRIER SAFETY REGULATIONS

[Notice No. 73-28]

PART 395—HOURS OF SERVICE OF DRIVERS

PART 396—INSPECTION AND MAINTENANCE

Authority To Perform Driver-Equipment Compliance Inspections

Sections 395.13 and 396.5(a) of the Motor Carrier Safety Regulations are being amended to authorize special agents of the Federal Highway Administration, as defined in Appendix B to the Regulations, to perform inspections of motor carriers' vehicles in operation and to declare "out of service" a driver who is found to be in violation of the hours-of-service rules in the course of an inspection. This change will make it unnecessary to amend those sections whenever changes in position titles of authorized personnel are made.

Since these amendments relate to organization and procedure of the Federal Highway Administration, notice and public procedure thereon are unnecessary and they are effective on the date of issuance set forth below.

In consideration of the foregoing, §§ 395.13 and 396.5(a) of the Motor Carrier Safety Regulations (Subchapter B of Chapter III in title 49, CFR) are revised to read as set forth below.

These amendments are issued under the authority of sections 20, 204, and 220 of the Interstate Commerce Act, 49 U.S.C. 20, 304, 320, section 6 of the Department of Transportation Act, 49 U.S.C. 1655 and the delegations of authority at 49 CFR 1.48 and 49 CFR 389.4.

Issued on November 5, 1973.

KENNETH L. PIERSON,
Acting Director,
Bureau of Motor Carrier Safety.

1. Section 395.13 of the Motor Carrier Safety Regulations is revised to read as follows:

§ 395.13 Drivers declared "Out of Service".

Every special agent of the Federal Highway Administration (as defined in Appendix B to this Subchapter) is authorized to notify and declare "Out of Service" with the prescribed Form MCS 65, any driver whom he finds at the time and place of examination to have been on duty or to have driven or operated immediately prior to such examination longer than the maximum period permitted by § 395.3, § 395.10, or § 395.11. No motor carrier shall permit or require a driver who has been notified and declared "Out of Service" to drive or operate, nor shall any such driver drive or operate, any motor vehicle unless and until such time as he has met the requirements of the specified sections.

2. Section 396.5(a) of the Motor Carrier Safety Regulations is revised to read as follows:

§ 396.5 Inspection of motor vehicles in operation.

(a) *Personnel authorized to perform inspections.* Every special agent of the Federal Highway Administration (as defined in Appendix B to this Subchapter) is authorized and hereby ordered to enter upon and perform inspections of motor carriers' vehicles in operation.

* * * * *

[FR Doc.73-24257 Filed 11-13-73;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. MC-19 (Sub-No. 7)]

PART 1056—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE OR FOREIGN COMMERCE

Participation in Rates at Different Levels; Correction

In FR Doc. 73-20292, appearing at page 26608 in the issue for Monday, September 24, 1973, paragraph (c) and (d) were omitted from § 1056.21. Section 1056.21 should read as follows:

§ 1056.21 Uniform rates for identical services.

(a) No motor common carrier of household goods shall have in effect for its account more than one level of line-haul rates, whether local or joint, covering the transportation of noncontainerized household goods in interstate or foreign commerce between the same two points in the same direction.

(b) No motor common carrier of household goods shall have in effect for its account more than one level of line-haul rates, whether local or joint, covering the transportation of containerized household goods in interstate or foreign commerce between the same two points in the same direction.

(c) No motor common carrier of household goods shall have in effect for its account more than one level of line-haul

rates, whether local or joint, covering pickup and delivery services in connection with the containerization or decontainerization of household goods in interstate or foreign commerce between the same two points in the same direction. Notwithstanding subsections (a) and (b) above, a motor common carrier of household goods may have in effect for its account one level of rates pertaining to pickup and delivery services in connection with containerization or decontainerization and a second level of rates pertaining to the regular long-haul (containerized) movement.

(d) The regulations in (a), (b), and (c) above shall not apply to rates applicable to the transportation of shipments of machinery which, because of its unusual nature or value, requires the specialized handling and equipment usually employed in moving household goods.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-24302 Filed 11-13-73;8:45 am]

Title 50—Wildlife and Fisheries

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

PART 33—SPORT FISHING

Crescent Lake National Wildlife Refuge and North Platte National Wildlife Refuge, Nebr.

The following special regulation is issued and is effective on November 14, 1973.

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

NEBRASKA

CRESCENT LAKE NATIONAL WILDLIFE REFUGE

Sport fishing on the Cresent Lake National Wildlife Refuge, Nebraska, is permitted on Crane and Island Lakes only on the areas designated by signs as open to fishing. These open areas comprising about 800 acres, are delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Center, P.O. Box 25486, Denver, Colorado 80225. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from January 1 through December 31, 1974.

(2) Boats propelled with poles, oars, paddles or electric motors only may be used for fishing.

(3) No person shall use live minnows or fish for bait, nor have in possession any live minnows or seine or net for capturing minnows.

(4) Overnight camping is not permitted.

(5) Open fires are not permitted.

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

NORTH PLATTE NATIONAL WILDLIFE REFUGE

Sport fishing on the North Platte National Wildlife Refuge, Nebraska, is permitted only on the areas designated by signs open to fishing. This open area, comprising 3,300 acres, is delineated on maps available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from January 15, through September 30, 1974, inclusive.

(2) Boats, motorboats and other floating craft may be used.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33, and are effective through September 30, 1974.

RONALD L. PERRY,
Refuge Manager.

NOVEMBER 7, 1973

[FR Doc.73-24258 Filed 11-13-73;8:45 am]

Proposed Rules

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 60]

USE OR DISTRIBUTION OF INDIAN JUDGMENT FUNDS

Proposed Rulemaking

Notice is hereby given that it is proposed to add a new Part 60 to Subchapter G, Chapter I, of Title 25 of the Code of Federal Regulations as set forth below. This addition is proposed pursuant to the authority contained in the Act of October 19, 1973 (Pub. L. 93–134).

The purpose of the proposed regulations is to govern the preparation of proposed plans for the use or distribution of judgment funds appropriated in satisfaction of awards made by the Indian Claims Commission and the United States Court of Claims.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed regulations to the Division of Tribal Government Services, Bureau of Indian Affairs, Washington, D.C. 20245, on or before December 14, 1973.

It is proposed to add a new Part 60 to Subchapter G, Chapter I, of Title 25 of the Code of Federal Regulations to read as follows:

PART 60—USE OR DISTRIBUTION OF INDIAN JUDGMENT FUNDS

Sec.

AUTHORITY: Act of October 19, 1973 (Pub. L. 93–134).

§ 60.1 Definitions.

As used in this Part 60, terms shall have the meanings set forth in this section.

(a) "Act" means the Act of October 19, 1973 (Pub. L. 93–134).

(b) "Secretary" means the Secretary of the Interior or his authorized representative.

(c) "Commissioner" means the Commissioner of Indian Affairs or his authorized representative.

(d) "Associate Solicitor" means the Associate Solicitor of Indian Affairs of the Department of the Interior.

(e) "Area Director" means the Area Director of any one of the Area Offices of the Bureau of Indian Affairs.

(f) "Superintendent" means the Superintendent or Officer in Charge of any one of the Agency Offices or other local offices of the Bureau of Indian Affairs.

(g) "Congressional Committees" means the Committees on Interior and Insular Affairs of the Senate and House of Representatives of the United States. "Either House" means either of these committees.

(h) "Indian tribe or group" means any Indian tribe, nation, band, pueblo, community or identifiable group of Indians, or Alaska Native entity, which has an interest in an award made by the Indian Claims Commission or the United States Court of Claims.

(i) "Tribal governing body" means the governing body of a formally organized tribe or group, the governing body as recognized by the Secretary of any informally organized tribe or group, the governing body of a formally organized Alaska Native entity or tribe in Oklahoma, or the spokesmen or representatives, as recognized by the Secretary, of any descendant group.

(j) "Aggrieved historic tribe" means the Indian tribe or group which lost lands, other property, or funds which resulted in a judgment granted by the Indian Claims Commission or the United States Court of Claims.

(k) "Successor tribe" means a modern, formally organized, reservation-based tribe or group, a formally organized tribe in Oklahoma, or a formally organized Alaska Native entity, found by the Secretary to be representative of, either wholly or partly, an aggrieved historic tribe.

(l) "Descendant group" means an unorganized or informally organized non-reservation based entity, or a portion of an organized, reservation-based tribe, which is composed of individual lineal descendants of members of an aggrieved historic tribe, and is found by the Secretary to be wholly or partly representative of such historic tribe.

(m) "Plan" means the plan submitted by the Secretary, together with all pertinent records and documents, for the use or distribution of judgment funds, to the Congressional Committees.

(n) "Enrollment" means that aspect of a plan which pertains to making or bringing current a roll of members of an organized, reservation-based tribe with membership criteria approved or accepted by the Secretary, a roll of members of an organized Oklahoma or Alaska Native entity or a roll of a descendant group; or which pertains to using an historical roll or record of names, including tribal rolls closed and made final, for research or other purposes.

(o) "Program" means that aspect of a plan which pertains to using part or all of the judgment funds for tribal social and economic development projects.

(p) "Per capita payment" means that aspect of a plan which pertains to the individualization of the judgment funds in the form of shares to tribal members or to individual descendants.

(q) "Use or distribution" means any utilization or disposition of the judgment funds, including programing, per capita payments, or a combination thereof.

(r) "Individual beneficiary" means a tribal member or any individual descendant, found by the Secretary to be eligible to participate in a plan, who was born on or prior to, and is living on, the approval date of the plan.

(s) "Approval date" means the date that a plan is approved by the Congress. Except for a plan disapproved by either House, the approval date of a plan shall be the sixtieth (60th) day after formal submittal of a plan by the Secretary to the Congressional Committees, excluding days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three (3) calendar days to a day certain. In the event a proposed plan is disapproved by either House, or in the event the Secretary is unable to submit a plan and therefore proposes legislation, the approval date shall be the date of enabling legislation for the disposition of the judgment funds.

(t) "Minor" is an individual beneficiary who is eligible to participate in a per capita payment and who has not reached the age of eighteen (18) years on the approved date.

(u) "Legal incompetent" is an individual beneficiary eligible to participate in a per capita payment and who has been declared to be under a legal disability, other than being a minor, by a court of competent jurisdiction.

(v) "Attorney fees and litigation expenses" means all fees and expenses incurred in litigating and processing a claim to the granting of an award, including those allowed by the Indian Claims Commission or the United States Court of Claims and which are of record.

§ 60.2 Purpose.

The regulations in this part govern the preparation of proposed plans for the use or distribution, pursuant to the Act, of all judgment funds awarded from the date of the Act to Indian tribes and groups by the Indian Claims Commission or the United States Court of Claims, excepting any tribe or group whose trust relationship with the Federal Government has been terminated and for which there exists legislation authorizing the disposition of its judgment funds; and of all funds deriving from judgments entered prior to the date of the Act and for which there has been no enabling legislation.

§ 60.3 Time limits.

The Secretary shall begin as early as possible the necessary research to determine the identity of the ultimate or present day beneficiaries of judgments. Such research shall be done by the Bureau of Indian Affairs. All pertinent data in the areas of cultural and political history and all pertinent rolls or records shall be considered. The results of such research shall specify a successor tribe (or tribes) to an aggrieved historic tribe, combinations of tribes and portions of tribes, a descendant group (or groups), or any combination of such entities found to be representative of an aggrieved historic tribe. If more than one entity is determined to be eligible to participate in the use or distribution of the funds, the results of the research shall include a formula for the division or apportionment of the judgment funds among or between the involved entities.

Within seventy-five (75) days of the date of the appropriation of funds to satisfy a judgment, the Commissioner shall submit the results of all research to the involved Area Director (or Area Directors), who shall immediately provide the results of the research to the governing bodies of all affected tribes and groups. The Area Director shall assist the affected tribe or group in arranging for preliminary sessions or meetings of the tribal governing body, or public meetings. The Area Director shall make a presentation of the results of the research and shall arrange for expertise of the Bureau of Indian Affairs to be available at these meetings to assist the tribe or group in developing a suggested plan. The Area Director shall particularly consider any programing aspects based on the Congressional programing concept of a minimum of twenty (20) per centum of the judgment funds, including available interest and the results of investments made prior to the approval of the plan. Such meetings shall be held within twenty (20) days of the receipt of the results of the research by the Area Director. When advised that a judgment is final the Superintendent shall begin to prepare, in cooperation with the tribal governing body, a report on the social and economic conditions of the affected tribe or group. Such report shall be made available to the Area Director, the Commissioner and the governing body of the tribe or group prior to meetings or discussions on any tribal suggested plan. Social and economic reports shall not ordinarily be prepared for descendant groups.

Within sixty (60) days after the Commissioner submits the results of the research to the Area Director, a hearing of record shall be called by the Area Director to receive testimony on the tribal plan. The hearing shall be held after meetings with the tribe and after preliminary review of the tribal proposed plan by the Commissioner.

§ 60.4 Conduct of hearings of record.

The Area Director shall hold a hearing of record, after appropriate public notice beginning at least twenty (20) days prior to the date of such hearing, and after consultation with the governing body of the tribe or group regarding the date and location of the hearing, to obtain the testimony of members of the governing body and other representatives, spokesmen or members of the tribe or group on the proposed tribal plan.

The Area Director shall arrange for all testimony to be transcribed at the hearing and shall furnish the Commissioner and the tribal governing body with a copy of the transcript as soon as possible subsequent to the hearing. Particular care shall be taken to insure that minority views are given full opportunity for expression either during the hearing or in the form of written communications to the Area Director by the date of the hearing.

Whenever two or more tribes or groups are involved in the proposed plan, including situations in which two or more Area Offices are concerned, every effort shall be made by the Area Director or Area Directors to hold a single hearing at a time and location as convenient to the tribes and groups as possible. Should the tribes and groups not reach agreement on such time or place, or on the number of entities to be represented at the hearing, the Commissioner, after considering the views of the affected tribes and groups, shall within twenty (20) days of receipt of advice by the Area Director, designate a location and date for such hearing and invite the participation of all entities he considers to be involved.

§ 60.5 Submittal of final proposed plan by Secretary.

Subsequent to the hearing of record, the Commissioner shall prepare all pertinent materials for the review of the Associate Solicitor. Pertinent materials shall include:

(a) The tribal proposed plan and any alternate plans;

(b) A statement on the hearing of record and other evidence reflecting the extent to which such proposed plan meets the desires of the affected tribe or group, including minority views;

(c) A copy of the transcript of the hearing of record;

(d) Copies of all pertinent resolutions and other communications or documents received from the affected tribe or group, including minorities;

(e) A copy of the social and economic report, if any has been required;

(f) A copy of the tribal constitution and bylaws, or other organizational document, if any; a copy of the tribal enrollment ordinance, if any; and a statement as to the availability or status of the membership roll of the affected tribe or group;

(g) A statement reflecting funds available to the tribe from any source in addition to the judgment funds, the status of the tribal budget and the nature and results of the investment of the judgment funds;

(h) A statement concerning attorney fees and litigation expenses which are of record (all allowable litigation expenses not paid by the date of the appropriation shall be made known to and paid by the Secretary prior to the date a plan is submitted);

(i) A statement justifying the proposed programing of any amount less than twenty (20) per centum of the total funds, including interest and the results of investments, accruing to any formally organized, reservation-based tribe or group or formally organized Oklahoma or Alaska Native entity;

(j) A statement justifying any compromise proposal developed by the Commissioner in the event of the absence of agreement among any and all entities on the division or apportionment of the funds, should two or more entities be involved;

(k) And a statement regarding the insurance of the proper performance of effective plans, including a timetable prepared by the Area Director in cooperation with the tribal governing body, for the implementation of programing and roll preparation.

Within one hundred and eighty (180) days of the appropriation of the judgment funds, and after the Associate Solicitor and the Commissioner have thoroughly reviewed all aspects of the proposed plan and other materials, the Secretary shall submit the final proposed plan, together with the other materials, simultaneously to each of the Chairmen of the Congressional Committees, to the governing body of the affected tribe or group, and to the Area Director and the Superintendent.

The one hundred and eighty (180) day period shall begin on the date of the Act with respect to all judgments for which funds have been appropriated and for which enabling legislation has not been enacted before the Act. The Secretary shall give priority consideration to all such judgments in the order in which funds have been appropriated. He shall also consider priorities for all tribes or groups who have developed plans by the date of the Act and have current tribal

rolls, or are actively engaged in bringing current such rolls.

§ 60.6 Submittal of proposed legislation by Secretary.

Within thirty (30) calendar days after the date of a resolution by either House disapproving a plan, the Secretary shall simultaneously submit proposed legislation authorizing the use or distribution of the funds, together with a report thereon, to the Chairman of both Congressional Committees, to the governing body of the affected tribe or group, to the Area Director and to the Superintendent. Such proposed legislation shall be developed on the basis of further consultation with the tribal governing body, the Area Director and the Superintendent.

In any instance in which the Secretary determines that circumstances do not permit the preparation and submission of a plan as provided in the Act, he shall submit, within the 180-day period, proposed legislation simultaneously to both Congressional Committees and after appropriate consultation with the affected tribe or group.

§ 60.7 Extension of period for submitting plans.

An extension of the one hundred and eighty (180) day period, not to exceed ninety (90) days, may be requested by the Secretary or by the governing body of any affected tribe or group submitting such request to both Congressional Committees through the Secretary, and any such request shall be subject to the approval of both Congressional Committees.

The effective date of all plans, including those contained in the form of legislation, unless otherwise provided by Congress, shall be the approval date.

§ 60.8 Enrollment aspects of plans.

An approved plan including provisions for enrollment, for either an organized tribe or group or a descendant group, and in which the Secretary declares in the plan that publication of enrollment rules and regulations is necessary, shall be implemented through the publication of such rules and regulations in the FEDERAL REGISTER. Enrollment rules and regulations, including those published as amendmenls to part 41 of this title, shall be prepared by the Bureau of Indian Affairs and shall be submitted for publication in the FEDERAL REGISTER within fifteen (15) days of the approval date of a plan. Individual descendants who are not citizens of the United States shall not, unless otherwise provided by Congress, be eligible to participate in the use or distribution of judgment funds, excepting heirs or legatees of deceased individual beneficiaries. Unless otherwise provided by Congress, heirs or legatees of deceased persons named on a tribal roll closed and made final by Act of Congress shall not be eligible to participate in the use or distribution of judgment funds unless they, themselves, have ancestry in the tribe or group determined to be entitled to the judgment funds or in the aggrieved historic tribe.

§ 60.9 Programing aspects of plans.

In assessing the programing percentage contained in a proposed plan, the Secretary shall consider the following factors: the percentage of tribal members residing on or near the subject reservation, including trust land areas in Oklahoma or Alaska Native villages; the formal educational level and the general level of social and economic adjustment of such reservation residents; the nature of recent programing affecting the subject tribe or group and particularly the reservation residents; the needs and aspirations of any local Indian communities or districts within the reservation and the nature of organization of such local entities; the feasibility of the participation of tribal members not in residence on the reservation; and the availability of funds for programing purposes derived from sources other than the subject judgment.

§ 60.10 Per capita payment aspects of plans and protection of funds accruing to minors and legal incompetents.

Per capita payments shall be made in accordance with conditions to be prescribed in the plan. The shares of deceased beneficiaries shall be held in Individual Indian Money Accounts until their heirs or legatees are determined, and shall be enhanced by investment earnings. Protection of the shares of minors and legal incompetents shall be part of approved plans containing per capita payment aspects. The Commissioner shall insure the protection of such shares, whether they be invested individually or collectively. Interest accruing on the shares of minors and incompetents shall be the property of such minors and incompetents and shall not be subject to State or Federal income taxes.

All per capita shares or portions thereof not cashed and remaining with the Federal Government shall be maintained separately and be enhanced by investment. No per capita share or a portion thereof shall be transferred to the U.S. Treasury as "Monies Belonging to Individuals Whose Whereabouts are Unknown." The same applies to those shares or portions thereof which may be maintained in Individual Indian Money Accounts or elsewhere.

§ 60.11 Investment of judgment funds.

The Commissioner shall invest the judgment funds as soon as possible subsequent to the appropriation of the funds.

The principal of the judgment funds in an investment status shall be withdrawn only as currently needed to effect specific portions of approved plans. All funds, including interest, not currently needed to effect programing or per capita payments shall remain in an investment status.

All interest and investment income earned on the judgment funds shall be invested at the highest rate of interest available and shall be withdrawn as described above with relation to the principal.

§ 60.12 Insuring the proper performance of effective plans.

The Area Director, in cooperation with the tribal governing body, shall establish a timetable, to be included in the plan submitted by the Secretary, for the implementation of all programing and enrollment aspects of a plan. At any time within one calendar year after the effective date of a plan, the Area Director shall report to the Commissioner on the status of the implementation of the plan, including all enrollment and programing aspects, and thenceforth shall report to the Commissioner on an annual basis regarding any remaining or unfulfilled aspects of a plan. The Area Director shall include in his first and all subsequent annual reports a statement regarding the maintenance of the timetable, a full accounting of any per capita distribution, and the expenditure of all programing funds by the Area Office, Agency Office, or the affected tribe or group. The Commissioner shall report the deficient performance of any aspect of a plan to the Secretary, together with the corrective measures he has taken or intends to take.

JOHN C. WHITAKER,
Acting Secretary of the Interior.

NOVEMBER 7, 1973.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 1121, 1126, 1127, 1128, 1129, 1130]

[Docket Nos. AO-231-A41, etc.]

MILK IN THE NORTH TEXAS AND CERTAIN OTHER MARKETING AREAS

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

7 CFR part	Marketing Area	Docket No.
1126	North Texas	AO-231-A41.
1121	South Texas	AO-364-A8.
1127	San Antonio, Tex	AO-232-A27.
1128	Central West Texas	AO-238-A30.
1129	Austin-Waco, Tex	AO-256-A23.
1130	Corpus-Christi, Tex	AO-289-A27.

Notice is hereby given of a public hearing to be held at the Executive Inn, 3232 West Mockingbird Lane, Dallas, Texas 75247, on December 3, 1973, beginning at 1:30 p.m., local time, with respect to proposed amendments to the tentative marketing agreements and to the orders, regulating the handling of milk in the North Texas, South Texas, San Antonio, Central West Texas, Austin-Waco, and Corpus Christi marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

The proposal to combine the above-listed marketing areas under one order raises the issue of whether the provisions set forth in Proposal No. 1 would tend to effectuate the declared policy of the Act if they are applied to the entire marketing area as proposed, and, if not, what modifications of the provisions would be appropriate.

The issues raised by this proposal include whether the declared policy of the Act would tend to be effectuated by:

(a) Merger of one or more of the above marketing areas, or any combination thereof, including also the redefinition of marketing areas for separate or combined orders which include part or all of the areas presently defined in the respective orders or proposed herein to be regulated; and

(b) Adoption of any of the proposed provisions, or appropriate modification thereof, for any separate order or any combination of such orders, including a review of the appropriate pricing and pooling provisions of the order whether separate or in any combination.

The proposed merger of orders also raises the issue of the appropriate disposition of the producer-settlement funds, marketing service funds, administrative funds, and advertising and promotion funds accumulated under the respective orders.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

PROPOSED BY ASSOCIATED MILK PRODUCERS, INC.

PROPOSAL NO. 1

Merge the six aforementioned orders into a single order, to be known as the "Texas Marketing Area", in accordance with the following provisions:

GENERAL PROVISIONS

§ 1126.1 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

§ 1126.2 Texas marketing area.

"Texas marketing area," hereinafter referred to as the "marketing area," means all the territory within the boundaries of the following geographical units, including all piers, docks, and wharves connected therewith, and all craft moored there at, and all territory wholly or partly therein occupied by Government (municipal, State or Federal) reservations, installations, institutions or other similar establishments, if any part thereof is within the listed geographical units:

(a) In the State of Arkansas, the city of Texarkana.

(b) In the State of Texas, the counties within the following defined zones:

ZONE I

Camp.	Johnson.
Cass.	Kaufman.
Collin.	Lamar
Cooke.	Morris.
Dallas.	Rains.
Delta.	Red River.
Denton.	Rockwall.
Fannin.	Tarrant.
Franklin.	Titus.
Grayson.	Van Zandt.
Hopkins.	Wise.
Hunt.	

ZONE II

Bowie.	Texarkana, Arkansas.

ZONE III

Gregg.	Smith.
Harrison.	Upshur.
Marion.	Wood.

ZONE IV

Bosque.	Hood.
Ellis.	Limestone.
Erath.	McLennan.
Hamilton.	Navarro.
Hill.	Somervell.

ZONE V

Anderson.	Panola.
Angelina.	Rusk.
Cherokee.	Sabine.
Freestone.	San Augustine.
Henderson.	Shelby.
Nacogdoches.	

ZONE VI

Brazos.	Madison.
Houston.	Robertson.
Leon.	Walker.

ZONE VII

Andrews.	McCulloch.
Borden.	Menard.
Brewster.	Midland.
Brown.	Mills.
Callahan.	Mitchell.
Coke.	Nolan.
Coleman.	Palo Pinto.
Comanche.	Parker.
Concho.	Pecos.
Crane.	Presidio.
Crockett.	Reagan.
Culberson.	Reeves.
Dawson.	Runnels.
Eastland.	San Saba.
Ector.	Schleicher.
Fisher.	Scurry.
Foard.	Shackelford.
Glasscock.	Stephens.
Haskell.	Sterling.
Howard.	Stonewall.
Irion.	Sutton.
Jack.	Taylor.
Jeff Davis.	Terrell.
Jones.	Throckmorton.
Kent.	Tom Green.
Kimble.	Upton.
King.	Val Verde.
Knox.	Ward.
Loving.	Winkler.
Martin.	Young.
Mason.	

ZONE VIII

Bastrop.	Lee.
Bell.	Llano.
Burnet.	Milam.
Coryell.	Travis.
Falls.	Williamson.
Lampasas.	

ZONE IX

Austin.	Liberty.
Burleson.	Montgomery.
Chambers.	Newton.
Colorado.	Orange.
Fayette.	Polk.
Galveston.	San Jacinto.
Grimes.	Trinity.
Hardin.	Tyler.
Harris.	Waller.
Jasper.	Washington.
Jefferson.	

ZONE X

Atascosa.	Hays.
Bandera.	Karnes.
Bexar.	Kendall.
Blanco.	Kerr.
Caldwell.	Kinney.
Comal.	Lavaca.
De Witt.	Maverick.
Edwards.	Medina.
Frio.	Real.
Gillespie.	Uvalde.
Gonzales.	Wilson.
Guadalupe.	Zavala.

ZONE XI

Brazoria.	Matagorda.
Calhoun.	Victoria.
Fort Bend.	Wharton.
Jackson.	

ZONE XII

Aransas.	Kleberg.
Bee.	La Salle.
Brooks.	Live Oak.
Dimmit.	McMullen.
Duval.	Nueces.
Goliad.	Refugio.
Jim Hogg.	San Patricio.
Jim Wells.	Webb.
Kenedy.	Zapata.

ZONE XIII

Cameron.	Starr.
Hidalgo.	Willacy.

§ 1126.3 Route disposition.

"Route disposition" means any delivery (including any delivery by a vendor or disposition at a plant store) of a fluid milk product classified as Class I milk other than a delivery in bulk form to a milk processing plant.

§ 1126.4 Plant.

"Plant" means the land, buildings, facilities, and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment at which milk or milk products (including filled milk) are received, processed and/or packaged. Separate facilities used only as a reload point for transferring bulk milk from one tank truck to another shall not be a plant under this definition if the milk transferred at such facilities can be identified as receipts from specific farmers until the milk is received at a plant. Facilities used only as a distribution point for storing fluid milk products in transit on routes shall not be a plant under this definition.

§ 1126.5 Distributing plant.

"Distributing plant" means a plant approved by any duly constituted State or municipal health authority, or acceptable to any agency of the State or Federal Government for the disposition of Grade A fluid milk products in the marketing area, at which milk products are

received, processed and/or packaged, and from which fluid milk products are disposed of on routes in the marketing area.

§ 1126.6 Supply plant.

"Supply plant" means a plant approved by an appropriate health authority to supply fluid milk for distribution as Grade A milk in the marketing area and from which milk is moved to a distributing plant as follows:

(a) During any month in which 50 percent or more of the receipts of Grade A milk at such plant is moved as milk or skim milk in bulk to a distributing plant and assigned to reserve supply credit pursuant to § 1126.19; or

(b) During the last month of any four or less consecutive months during which period an average of 50 percent or more of the receipts of Grade A milk at such plant is moved as milk or skim milk in bulk to a distributing plant and assigned to reserve supply credit pursuant to § 1126.19 and 15 percent or more of such receipts are thus moved and assigned during the month; or

(c) During each of the months of February through August, if such plant was a supply plant pursuant to paragraph (a) or (b) of this section during each of the immediately preceding months of September through November and January; and during the month of December if such plant qualified as a supply plant during each of the preceding months of September through November; and if the operator of such plant has filed a written request on or before January 31 with the market administrator requesting that such plant be designated as a supply plant through August of such year: *Provided*, That, to remain a supply plant during August, 15 percent or more of the receipts of Grade A milk at such plant is moved as milk or skim milk in bulk to a distributing plant and assigned to reserve supply credit pursuant to § 1126.19; *And provided further*, That the volume of milk to be pooled in any month at a supply plant, pursuant to this paragraph, shall not exceed 150 percent of the monthly average volume pooled at such plant during the period upon which such qualification is based pursuant to this paragraph.

§ 1126.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means a plant specified in paragraph (a), (b), or (c) of this section.

(a) Any distributing plant, except a producer-handler plant or an other order plant, from which during the month:

(1) The disposition of fluid milk products, except filled milk, on routes within the marketing area is 15 percent or more of the receipts of Grade A milk at such plant; and

(2) The total disposition of fluid milk products, except filled milk, on routes is 50 percent or more of the receipts of Grade A milk at such plant, except that if two or more distributing plants operated by the same handler each meet the performance requirement of paragraph (a)(1) of this paragraph and total disposition of fluid milk products, except filled milk, on routes of such plants is 50 percent or more of receipts of Grade A milk at such plants, each such plant shall be deemed to have met the requirements of this subparagraph.

(b) Any supply plant.

(c) Any plant, operated by a cooperative association, which has been approved by any duly constituted State or municipal health authority and at which milk is received from dairy farmers holding permits or authorization from such health authority, and at least 50 percent or more of the producer milk of members of such cooperative association is physically received during the month at pool plants of other handlers described in paragraph (a) of this section or is transferred to such pool plants from a plant of the cooperative association. When such a plant qualifies as a pool plant pursuant to this paragraph and also qualifies under a similar provision of another Federal order such plant shall be a pool plant under the order to which the most milk is delivered from such plant.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all of the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its route disposition, 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 plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition in such other marketing area and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, in this marketing area than in such other marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(4) A plant qualified pursuant to paragraph (b) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part, except during the months of February through August and the month of December if such plant retains automatic pooling status under this part.

§ 1126.8 Nonpool plant.

"Nonpool plant" means any milk (or filled milk) receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the 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) "Unregulated supply plant" means any nonpool plant from which fluid milk products are moved to a pool plant during the month, but which is neither an other order plant nor a producer-handler plant.

(d) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

§ 1126.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to producer milk of its members which it causes to be diverted from a pool plant of another handler to a nonpool plant for the account of such cooperative association;

(c) Any cooperative association with respect to milk it receives for its account from the farm of a producer in a tank truck owned and operated by, or under the control of, such association, for delivery to a pool plant(s);

(d) Any person in his capacity as the operator of a partially regulated distributing plant; and

(e) A Producer-handler, or any person who operates an other order plant described in § 1126.7(d).

§ 1126.10 Producer-handler.

"Producer-handler" means any person who:

(a) Produces milk and operates a distributing plant;

(b) Receives no milk from other dairy farmers;

(c) Disposes of no other source milk (except that represented by nonfat solids used in the fortification of fluid milk products) as Class I milk;

(d) Receives from pool plants not more than a total of 10,000 pounds of fluid milk products during the month or 5 percent of his Class I disposition, whichever is less; and

(e) Furnishes satisfactory proof to the market administrator that the maintenance, care and management of all dairy animals and other resources necessary to produce the entire amount of fluid milk handled (excluding transfers from pool plants) and the operation of the plant are each the personal enterprise of and at the personal risk of such person.

§ 1126.11 Governmental agency.

A plant owned and operated by a governmental agency or establishment which processes or packages milk or filled milk distributed in the marketing area, shall be exempted from all provisions of this part. Fluid milk products received at a pool plant from such agency shall be treated on the same basis as though received from a producer-handler. Fluid milk products disposed of by a handler to such agencies shall be classified on the same basis as though disposed of to a producer-handler.

§ 1126.12 Producer.

"Producer" means:

(a) Any person, except a governmental agency which operates a plant exempt pursuant to § 1126.11, or a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk approved for consumption as Grade A milk by any duly constituted State or municipal health authority, which is:

(1) Received at a pool plant, including milk of a dairy farmer delivered to the pool plant by a cooperative association as a handler pursuant to § 1126.9(c).

(2) Diverted by a handler for his account from a pool plant to a nonpool plant, subject to the provisions of § 1126.13(c).

(b) "Producer" shall not include:

(1) Any person with respect to milk produced by him which is diverted to a pool plant from another order plant if the other order designates such person as a producer under that order and the handler under the other order diverting such milk and the operator of the pool plant each have requested Class II or Class III classification of such milk in the reports of receipts and utilization filed with their respective market administrators.

(2) Any person with respect to milk produced by him which is diverted to an other order plans if such person is designated as a producer under the other order with respect to such milk.

§ 1126.13 Producer milk.

"Producer milk" means skim milk and butterfat for each handler's account in milk from producers as follows:

(a) With respect to operations of a pool plant:

(1) Received directly from such producers;

(2) Received from a cooperative association handler pursuant to § 1126.9 (c); and

(3) Diverted by the operator of such pool plant to a nonpool plant for his account, subject to the conditions of paragraph (c) of this section.

(b) With respect to additional receipts by a cooperative association handler:

(1) Diverted by such cooperative association from the pool plant of another handler to a nonpool plant for the account of such cooperative association, subject to the conditions of paragraph (c) of this section; and

(2) Received by such cooperative association from the farms of producer members as a handler pursuant to § 1126.9(c) in excess of the quantity delivered to pool plants pursuant to paragraph (a)(2) of this section.

(c) With respect to diversions to nonpool plants:

(1) A cooperative association may divert for its account a total quantity of milk not to exceed one-third of the total producer milk of its members received at all pool plants during the month. Diversions in excess of such quantity shall not be producer milk and the diverting cooperative shall specify the dairy farmers whose diverted milk is ineligible as producer milk. If the cooperative association fails to designate such producers, producer milk status shall be forfeited with respect to all milk diverted by such cooperative association.

(2) A handler operating a pool plant may divert for his account milk of producers other than members of a cooperative association diverting milk pursuant to paragraph (c)(1) of this section, in a total quantity not to exceed one-third of the milk at such pool plant during the month from producers who are not members of such a cooperative association. Milk diverted in excess of such quantity shall not be producer milk and the diverting handler shall specify the dairy farmers whose diverted milk is ineligible as producer milk. If a handler fails to designate such producers, producer milk status shall be forfeited with respect to all milk diverted by such handler; and

(3) For the purposes of location adjustments pursuant to §§ 1126.52 and 1126.75, diverted milk shall be priced at the location of the nonpool plant to which diverted.

§ 1126.14 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 § 1126.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1126.40(b)(1);

(c) Products (other than fluid milk products and products specified in § 1126.40(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 § 1126.40(b)(1)) for which the handler fails to establish a disposition.

§ 1126.15 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 § 1126.40 (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.

§ 1126.16 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.

§ 1126.17 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).

§ 1126.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act;"

(b) To have full authority in the sale of milk of its members; and

(c) To be engaged in making collective sales or marketing milk or its products for its members.

§ 1126.19 Reserve supply credit.

The hundredweight of reserve supply credit that may be assigned to bulk milk moved from a supply plant to a distributing plant shall be calculated as follows: From the total hundredweight of milk classified as Class I milk, except filled milk, at the distributing plant during the month, deduct Class I sales, except filled milk, to other pool plants and from this result deduct an amount equal to 85 percent of the total hundredweight of milk received from producers including

receipts pursuant to § 1126.9(c), during the month at such plant. Any plus figure resulting from this calculation shall be assigned pro rata to milk moved to such plant from supply plants unless the operator of the distributing plant notifies the market administrator in writing of a different assignment on or before the seventh day after the end of the month.

§ 1126.20 Marketing period.

A "marketing period" shall mean a calendar month or portion thereof.

HANDLER REPORTS

§ 1126.30 Monthly reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler, except a handler as defined pursuant to § 1126.9 (d), shall report for such month to the market administrator in detail and on forms prescribed by the market administrator the following:

(a) The quantities of skim milk and butterfat contained in producer milk, showing separately such milk received from a cooperative association pursuant to § 1126.9(c), except that a handler as specified in § 1126.9(d) who operates a partially regulated distributing plant shall report receipts of Grade A milk from dairy farmers in lieu of those in producer milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk and the quantity of reconstituted skim milk in such disposition;

(b) The quantities of skim milk and butterfat contained in fluid milk products received from other handlers;

(c) The quantities of skim milk and butterfat contained in other source milk;

(d) Inventories of fluid milk products on hand at the beginning and end of the month;

(e) The utilization of all skim milk and butterfat required to be reported pursuant to this section including a separate statement of the route disposition of Class I milk outside the marketing area and a statement showing separately in-area and outside area route disposition of filled milk; and

(f) Such other information with respect to his reports of receipts and utilization as the market administrator may prescribe.

§ 1126.31 Payroll reports.

(a) Each handler pursuant to § 1126.9 (a), (b), or (c) shall report to the market administrator in the detail and on forms prescribed or approved by the market administrator as follows:

(1) On or before the seventh day after the end of each month, for each producer from whom milk was received: (i) his name and address; (ii) the total pounds and butterfat content of milk received during the month; and (iii) the amount of any deductions authorized in writing by such producer to be made from payment due for milk delivered;

(2) On or before the twenty-second day of each month, the name and address of each producer from whom milk was received during the first fifteen days of such month, and the pounds of milk so received during said period from such producer; and

(b) Each handler operating a partially regulated distributing plant who elects to make payments pursuant to § 1126.76 (b) shall report to the market administrator on or before the fifteenth day after the end of the month for each dairy farmer from whom Grade A milk was received: (1) his name and address; (2) the total pounds and butterfat content of milk received from such dairy farmer during the month; (3) the amount of any deductions authorized in writing by such dairy farmer to be made from payments due for milk delivered; and (4) the amount paid such dairy farmer.

§ 1126.32 Other reports.

(a) Each handler who causes milk to be diverted for his account directly from the farm of a producer to a nonpool plant shall, prior to such diversion, report to the market administrator and to the cooperative association of which such producer is a member his intention to divert such milk, the proposed date or dates of diversion, and the plant to which such milk is to be diverted.

(b) Each producer-handler and each handler who operates an other order plant shall make reports to the market administrator at such time and in such manner as the market administrator may request.

(c) In addition to the reports required pursuant to §§ 1126.30 and 1126.31 and paragraphs (a) and (b) of this section, 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

§ 1126.40 Classes of utilization.

Except as provided in § 1126.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1126.30 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;

(3) Used to produce cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(4) Used to produce milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen deserts, frozen desert mixes, and any concentrated milk product in bulk form;

(5) Used to produce custards, puddings, and pancake mixes; and

(6) 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.

(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) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package, and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package;

(vi) Any product containing 6 percent or more nonmilk fat (or oil) except those products specified in paragraph (b)(1) of this section; and

(vii) Any product that is not specified in paragraph (c)(1) (i) through (vi) of this section or in paragraph (b) of this section;

(2) 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;

(3) In skim milk in any modified fluid milk products 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, plus the fluid equivalent of loss of nonfat milk solids occurring in the process of modification in any case where determination of the quantity of added nonfat milk solids disposed of in such products is based upon laboratory analysis by the market administrator, such loss allowable pursuant to this subparagraph not to exceed 2 percent of the fluid equivalent of the quantity of added nonfat milk solids so determined to be added; and

(4) In shrinkage assigned pursuant to § 1126.41(a) to the receipts specified in § 1126.41(a)(2) and in shrinkage specified in § 1126.41 (b) and (c).

§ 1126.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1126.30, 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 subparagraph (1) of such paragraph that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1126.9(c), except that if the operator of the plant to which the milk is delivered purchases the milk on the basis of weights determined by farm bulk tank calibration and butterfat tests 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 by farm bulk tank calibration and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received 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 § 1126.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined by farm bulk tank calibration and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1126.42 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 or by a handler described in § 1126.9(c) to another handler's 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 computations pursuant to § 1126.44(a)(12) and the corresponding step of § 1126.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1126.44(a)(7) or the corresponding step of § 1126.44(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 § 1126.44(a) (11) or (12) or the corresponding steps of § 1126.44(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 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 adjustment 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 § 1126.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product;

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (a)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(a) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1126.30 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) Prorata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(d) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(b) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(a) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(b) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1126.43 General classification rules.

In determining the classification of producer milk pursuant to § 1126.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1126.30 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 § 1126.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1126.40, 1126.41, and 1126.42;

(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 § 1126.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1126.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1126.9(a) for each of his pool plants separately and of each handler described in § 1126.9 (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 § 1126.41(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 another 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 § 1126.40(b) (1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Except for the first month that a pool plant is subject to this subparagraph, subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1126.40(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 § 1126.40(c) (3)), any product specified in § 1126.40(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 § 1126.40(b) (1) that were not subtracted pursuant to paragraphs (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;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to subparagraph (2) of this paragraph; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (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 subparagraph (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 § 1126.9(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 subparagraph (7)(vi) of this paragraph, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1126.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) 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 paragraphs (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 § 1126.45(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 all 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) and (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 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 an other pool plant or a handler described in § 1126.9(c) according to the classification of such products pursuant to § 1126.42(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 § 1126.44(a)(14) and the corresponding step of § 1126.44(b).

§ 1126.45 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 § 1126.44(a)(12) and the corresponding step of § 1126.44(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 § 1126.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class.

CLASS PRICES

§ 1126.50 Class prices.

Subject to the provisions of § 1126.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat should be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.34.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 20 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month but not to exceed the price computed as follows:

(1) Multiply the Chicago butter price by 4.2;

(2) Multiply by 8.2 the weighted average of carlot prices per pound for nonfat dry milk solids, spray process, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the twenty-sixth day of the immediately preceding month through the twenty-fifth day of the current month by the Department;

(3) From the sum of the results arrived at under paragraph (c) (1) and (2) of this section subtract 48 cents, and round to the nearest cent; and

(4) For the months of March, April, May, June, July, and December subtract 14 cents.

§ 1126.51 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.

§ 1126.52 Plant location adjustments for handlers.

(a) For producer milk received at a plant and classified as Class I milk, subject to the limitations set forth in paragraph (b) of this section, the price specified in § 1126.50 (a) shall be adjusted pursuant to paragraph (a) (1) or (2) of this section at the applicable rate per hundredweight for the location of such plant.

(1) For a plant located within one of the zones, as set forth in § 1126.2, the applicable zone rates shall be as follows:

Zone I—No adjustment.
Zone II—Minus 18 cents.
Zone III—Plus 6 cents.
Zone IV—Plus 15 cents.
Zone V—Plus 18 cents.
Zone VI—Plus 21 cents.
Zone VII—Plus 25 cents.
Zone VIII—Plus 30 cents.
Zone IX—Plus 36 cents.
Zone X—Plus 42 cents.
Zone XI—Plus 53 cents.
Zone XII—Plus 66 cents.
Zone XIII—Plus 75 cents.

(2) *Mileage rates.* For any plant located in the States of Louisiana and New Mexico and the Counties of El Paso and Hudspeth in the State of Texas the Class I price shall be the Zone I price. For any plant located outside the marketing area, the States of Louisiana and New Mexico, the Counties of El Paso and Hudspeth in the State of Texas, and more than 70 miles from the City Hall of Dallas, Texas, the Class I price shall be the Class I price applicable at the location of the city hall in Dallas, Texas less 1.5 cents for each 10 miles or fraction thereof in excess of 70 miles that such plant is located from such city hall: *Provided,* That in no event shall the Class I price at a plant located in the State of Oklahoma be less than the Class I price under the Oklahoma Metropolitan Order at such plant.

(b) For purposes of calculating such location adjustments transfers between pool plants shall be assigned Class I disposition at the transferee plant in excess of the sum of 95 percent of receipts at such plant from producers and handlers described in § 1126.9 (c) and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants having the same Class I price, next to transferor plants having a higher Class I price and then in sequence to plants having a lower Class I price, beginning with the plant at which the highest Class I price would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1126.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1126.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

§ 1126.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market adminstrator 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 § 1126.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1126.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1126.44(a)(14) and the corresponding step of § 1126.44(b) by the respective class prices, adjusted by the butterfat differential specified in § 1126.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1126.44(a)(9) and the corresponding step of § 1126.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1126.44(a)(1) (i) through (iv) and the corresponding step of § 1126.44(b), excluding receipts of bulk fluid cream products from another order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1126.44(a)(7) (v) and (vi) and the corresponding step of § 1126.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1126.44(a)(11) and the corresponding step of § 1126.44(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.

§ 1126.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content at pool plants at which no location adjustment applies as follows:

(a) Combine into one total the values computed pursuant to § 1126.60 for all handlers who made the reports prescribed in § 1126.30 and who made the payments pursuant to § 1126.71 for the preceding month;

(b) Add not less than one-fourth of the cash balance on hand in the producer-settlement fund, less the total amount of the contingent obligations to handlers pursuant to § 1126.77;

(c) Add the aggregate of the values of minus location adjustments and subtract the aggregate of all plus location adjustments pursuant to § 1126.75;

(d) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

(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 § 1126.60(f); and

(f) Subtract not less than 4 cents nor more than 5 cents.

§ 1126.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The twelfth day after the end of each month the uniform price for such month.

Payments for Milk

§ 1126.70 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 §§ 1126.71, 1126.76, and 1126.77, and out of which he shall make appropriate payments required pursuant to §§ 1126.73 and 1126.77.

§ 1126.71 Payments to the producer-settlement fund.

(a) On or before the twenty-fifth day of each month each handler receiving milk from producers, from a handler described in § 1126.9(c), or interhandler transfers from a cooperative association pool plant or other order plant to a distributing plant operated by such handler shall pay to the market administrator for deposit into the producer-settlement fund an amount of money calculated by multiplying the hundredweight of producer milk received by him during the first fifteen days of such month by the Class III price for the preceding month.

(b) On or before the thirteenth day after the end of each month, each handler shall pay to the market administrator for deposit into the producer-settlement fund an amount of money equal to such handler's value of milk for such month as determined pursuant to § 1126.60(a), adjusted by the butterfat differential specified in §§ 1126.74, and 1126.60 (b) through (f), including the value of interhandler transfers from a cooperative association pool plant or other order plant to a distributing plant operated by such handler, less:

(1) Payments made pursuant to paragraph (a) of this section for such month;

(2) An amount computed by multiplying the quantities of receipts of other source milk for which a value is computed pursuant to § 1126.60(f) by the uniform price computed pursuant to § 1126.61 as adjusted pursuant to § 1126.75; and

(3) Proper deductions authorized in writing by producers from whom such handler received milk.

(c) On or before the twenty-fifth day after the end of the month each handler who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route distribution 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.

§ 1126.72 [Reserved]

§ 1126.73 Payments to producers and to cooperative associations.

(a) On or before the last day of each month, the market administrator shall make payment to each producer for milk received from such producer during the first fifteen days of such month by handlers from whom the appropriate payments have been received pursuant to § 1126.71(a) at not less than the Class III price per hundredweight for the preceding month;

(b) On or before the fifteenth day after the end of each month, the market administrator shall make payment to each producer for milk received from such producer during the month by handlers from whom the appropriate payments have been received pursuant to § 1126.71(b), such payments by the market administrator to be not less than the uniform price computed pursuant to § 1126.61 subject to the following:

(1) adjustments pursuant to § 1126.74 and § 1126.75;

(2) less payments made pursuant to paragraph (a) of this section;

(3) less deductions for marketing services pursuant to § 1126.86;

(4) less proper deductions authorized in writing by the producer; and

(5) adjusted for any error in calculating payment to such individual producer for past months: *Provided*, That if the market administrator has not received full payment from any handler for such month, pursuant to § 1126.71, 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: *And provided further*, That the market administrator shall make such balance of payment to producers on or before the next date for making payments pursuant to this paragraph following that on which balance of payment is received from such handler;

(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 payments are due to individual producers, to a cooperative association which is authorized to collect payment for milk of its members and from which a written request for such payments has been received, a total amount equal to the sum of the individual payments otherwise payable to such producers pursuant to this section, plus the value of interhandler transfers from a cooperative association pool plant or other order plant to pool distributing plants; and

(d) In making payments required by paragraph (b) of this section, the market administrator shall furnish each producer or cooperative association with a supporting statement in such form that it may be retained by the producer or cooperative association which shall show:

(1) The month and the identity of the handler and the producer;

(2) The total pounds and the average butterfat content of the milk delivered by the producer;

(3) The minimum rate at which payment to the producer or cooperative association is required;

(4) The amount or rate per hundredweight of each deduction claimed by the handler including any deductions made pursuant to § 1126.86, together with a description of the respective deductions; and

(5) The net amount of payment to the producer or cooperative association.

§ 1126.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92 score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1126.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payments to producers pursuant to § 1126.73 (b) or (c) the uniform price computed pursuant to § 1126.61 to be paid for producer milk received at a pool plant shall be adjusted according to the location of the pool plant at the rate set forth in § 1126.52.

(b) For purposes of computation pursuant to §§ 1126.71 and 1126.72 the uniform price plus 5 cents per hundredweight shall be adjusted at the rates set forth in § 1126.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted uniform price shall not be less than the Class III price.

§ 1126.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the twenty-fifth 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 §§ 1126.30(a) and 1126.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any 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 plus 5 cents per hundredweight, 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 § 1126.60 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 transfer 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 § 1126.60 shall be priced at the uniform price plus 5 cents per hundredweight (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1126.60 for such handler shall include, in lieu of the value of other source milk specified in § 1126.60(f) less the value of such other source milk specified in § 1126.71(b)(2), a value of milk determined pursuant to § 1126.60 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 § 1126.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to § 1126.30(a) and § 1126.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1126.60 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.

§ 1126.77 Adjustment of accounts.

Whenever verification by the market administrator of any handler's reports, books, records, accounts or payments discloses errors resulting in money due the market administrator from such handler or 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 set forth in the provision under which such error occurred.

§ 1126.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1126.71, 1126.76, 1126.77, 1126.85, or 1126.86 shall be increased three-fourths of one percent per month beginning on the first day after the due

date, and on each date of subsequent months following the day on which such type of obligation is normally due: *Provided*, That:

(a) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid interest charges previously computed pursuant to this section; and

(b) For the purpose of this section any obligation that was determined at a date later than that 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

§ 1126.85 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 fifteenth day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Receipts from producers (including such handler's own production) except receipts by a handler described in § 1126.9(c);

(b) Receipts from a handler described in § 1126.9(c);

(c) Other source milk allocated to Class I pursuant to § 1126.44(a) (7) and (11) and the corresponding steps of § 1126.44(b), except such other source milk that is excluded from the computations pursuant to § 1126.60 (d) and (f); and

(d) Route disposition from a partially regulated distributing plant in the marketing area that exceeds the skim milk and butterfat subtracted pursuant to § 1126.76(a)(2).

§ 1126.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, the market administrator, in making payments to producers pursuant to § 1126.73, shall deduct an amount not exceeding 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk received by a handler from producers during the month. Such moneys shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association. Such services shall be performed in whole or in part by the market administrator or an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is actually performing the services set forth in paragraph (a) of this section, the market administrator shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative associations and such producers and on or before the fifteenth day after the end of each month pay such deduction to the cooperative association rendering such services, accompanied by a statement showing the quantity of milk for which such deduction was computed for each such producer.

ADVERTISING AND PROMOTION PROGRAM

§ 1126.110 Agency.

"Agency" means an Agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1126.121 (b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1126.111 Composition of Agency

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1126.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1126.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all producers who have not requested refunds for the most recent calendar quarter under any order shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1126.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1126.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1126.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1126.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1126.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1126.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1126.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1126.110 and 1126.117.

§ 1126.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1126.110 and 1126.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1126.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1126.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1126.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1126.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1126.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first fifteen days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the fifteenth day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1126.121 Duties of the market administrator.

Except as specified in § 1126.116, the market administrator in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1126.113(c).

(b) Set aside the amounts subtracted under § 1126.61 (d) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraphs (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1126.61(d).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1126.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1126.61(d) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1126.110 through 1126.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1126.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1126.70.

PROPOSED BY THE SOUTHLAND CORPORATION

PROPOSAL NO. 2

§ 1126.2 [Amended]

Change § 1126.2 in Proposal No. 1 by deleting paragraph (a), deleting Cass County from Zone I, deleting Zone II, and redesignating Zones III through XIII as Zones II through XII.

If, however, Bowie and Cass Counties in Texas and Texarkana, Arkansas, are included in a regulated marketing area, the following alternate proposal should be considered:

Change § 1126.2 in Proposal No. 1 by deleting paragraph (a) and defining Zone II as follows:

ZONE II

In the State of Texas, Bowie County; and
In the State of Arkansas, the following counties:

Columbia.	Miller.
Hempstead.	Nevada.
Howard.	Pike.
Lafayette.	Sevier.
Little River.	Union.

PROPOSAL NO. 3

1. Change §§ 1126.8(b) and 1126.10(a) in Proposal No. 1 as follows:

§ 1126.8 [Amended]

* * * * *

(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, and which processes and distributes less than 12,000 pounds of Class I milk per month.

* * * * *

§ 1126.10 [Amended]

* * * * *

(a) Produces milk and operates a distributing plant from which less than 12,000 pounds of Class I milk is distributed monthly.

* * * * *

2. If, however, a producer-handler is not to be subject to the 12,000-pound limit, the following alternate proposal should be considered:

Change §§ 1126.8(b) and 1126.10(d) in Proposal No. 1 as follows:

§ 1126.8 [Amended]

* * * * *

(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: *Provided*, That a producer-handler plant which becomes a pool plant by failing to qualify for exemption pursuant to § 1126.10 shall remain a pool plant until the third consecutive month in which it qualifies for such exemption.

* * * * *

§ 1126.10 [Amended]

* * * * *

(d) Receives from pool plants not more than a total of 1,000 pounds of fluid milk products during the month or 5 percent of his Class I disposition, whichever is less; and

* * * * *

PROPOSAL NO. 4

Change §§ 1126.12(a)(2) and 1126.13(a)(3) in Proposal No. 1 as follows:

§ 1126.12 [Amended]

(a) * * *

(2) Diverted by a handler for his account from a pool plant to a nonpool plant, subject to the provisions of § 1126.13(c), or to a pool supply plant pursuant to § 1126.13(a)(3).

* * * * *

§ 1126.13 [Amended]

(a) * * *

(3) Diverted by the operator of such pool plant to a nonpool plant, or to a pool supply plant, for his account, subject to the conditions of paragraph (c) of this section.

PROPOSAL NO. 5

Use under a merged order the classification and allocation provisions for two classes set forth in the North Texas order.

If, however, three classes are adopted, use the classification and allocation provisions set forth in the Department's final decision to be issued in regard to the hearing held for 32 markets under Docket Nos. AO-336-A8, et al.

PROPOSAL NO. 6

Change § 1126.50 in Proposal No. 1 by using the class prices set forth in the North Texas order if two classes of utilization are adopted.

If, however, three classes of utilization are adopted, the following alternate proposal should be considered:

Change § 1126.50 (a) and (b) in Proposal No. 1 as follows:

§ 1126.50 Class prices.

Subject to the provisions of §§ 1126.52 and 1126.74, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.32.

(b) *Class II price.* The Class II price shall be the Class III price for the second preceeding month plus 10 cents: *Provided*, That for the months of March through July subtract 14 cents.

* * * * *

PROPOSAL NO. 7

§ 1126.52 [Amended]

If Proposal No. 2 is adopted, change § 1126.52(a)(1) in Proposal No. 1 as follows:

(1) For a plant located within one of the zones, as set forth in § 1126.2, the applicable zone rates shall be as follows:

Zone I—No adjustment.
Zone II—Minus 3 cents.

If, however, alternate Proposal No. 2 is adopted, the following alternate proposal should be considered:

Change § 1126.52(a)(1) in Proposal No. 1 as follows:

(1) For a plant located within one of the zones, as set forth in § 1126.2, the applicable zone rates shall be as follows:

Zone I—No adjustment.
Zone II—Minus 21 cents.
Zone III—Minus 3 cents.

PROPOSAL NO. 8

If three classes of utilization are adopted under a merged order, delete § 1126.62 in Proposal No. 1 and change § 1126.53 in such proposal as follows:

§ 1126.53 Announcement of class prices and the uniform price.

The market administrator shall announce publicly:

(a) On or before the fifth day of each month:

(1) The Class I price and butterfat differential for the following month;

(2) The Class II price and butterfat differential for the following month; and

(3) The Class III price and butterfat differential for the preceding month.

(b) On or before the twelfth day of each month, the uniform price and butterfat differential for the preceding month.

If, however, two classes of utilization are adopted, this proposal should be adopted only as it pertains to § 1126.53(a)(1).

§ 1126.62 [Deleted]

PROPOSAL NO. 9

Change § 1126.70 in Proposal No. 1 as follows:

§ 1126.70 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 §§ 1126.71, 1126.76, and 1126.77 and out of which he shall make appropirate payments required pursuant to §§ 1126.71, 1126.73 and 1126.77.

PROPOSAL NO. 10

Change § 1126.71 in Proposal No. 1 by adding a proviso at the end of paragraph (a) and a new paragraph (d) as follows:

§ 1126.71 [Amended]

(a) * * * *Provided*, That a handler who has received milk from producers not members of a cooperative association, and who has made all payments required by the order, may at his option, make the required payment directly to such producers. Exercise of this option shall be made, in writing, to the market administrator to be effective until further notice of disqualification of the handler for this option.

* * * * *

(d) A handler who qualifies under the proviso in paragraph (a) of this section, and who has exercised the option to make payments directly to the producers supplying his plant, and who has made the payment required by paragraph (b) of this section, shall receive from the market administrator an amount of money sufficient to pay such producers the uniform price computed pursuant to § 1126.61 as adjusted pursuant to § 1126.75.

PROPOSAL NO. 11

Change § 1126.73 in Proposal No. 1 by adding a new paragraph (e) as follows:

§ 1126.73 [Amended]

* * * * *

(e) This section does not apply to payments made directly by handlers to producers pursuant to the proviso in paragraph (a) of § 1126.71 and pursuant to paragraph (d) of § 1126.71.

PROPOSAL NO. 12

§ 1126.74 [Amended]

Change § 1126.74 in Proposal No. 1 by adding at the end thereof the following sentence: "The Class I and Class II butterfat differentials shall be computed from such butter prices for the second preceding month."

PROPOSAL NO. 13

§ 1126.78 [Amended]

Change § 1126.78 in Proposal No. 1 by changing the date on which interest starts accruing on overdue accounts from the first day after the due date to the third day after the due date.

PROPOSED BY BORDEN, INC.

PROPOSAL NO. 14

§§ 1121.70, 1126.70, 1127.70, 1128.70, 1129.70, 1130.70 [Amended]

Amend each of the above-listed orders by deleting from section 46 of each such order those provisions which require that other order or unregulated bulk milk be allocated to Class II or II–A, substituting therefor language which would require that such bulk milk be allocated to Class I or Class II at the handler's discretion, and deleting §§ 1121.70 (d) and (e), 1126.70 (d) and (e), 1127.70 (c) and (d), 1128.70 (d) and (e), 1129.70 (c) (1) and (2), and 1130.70 (d) and (e).

It is also proposed that in the event the above-listed orders are merged into one order the resulting order not include provisions corresponding to those set forth above for deletion from the individual orders.

PROPOSAL NO. 15

§ 1126.2 [Amended]

If Proposal No. 1 is adopted, change § 1126.2 of such proposal by deleting paragraph (a) and by deleting in paragraph (b) the reference to Cass County in Zone I and all of Zone II.

PROPOSED BY SCHEPPS DAIRY, INC.

PROPOSAL NO. 16

§ 1126.52 [Amended]

Change § 1126.52(a)(1) in Proposal No. 1 as follows:

Zone I, No adjustment.
Zone II, −24¢.
Zone III, +9¢.
Zone IV, +20¢.
Zone V, +24¢.
Zone VI, +29¢.
Zone VII, +34¢.
Zone VIII, +40¢.
Zone IX, +49¢.
Zone X, +52¢.
Zone XI, +80¢.
Zone XII, +88¢.
Zone XIII, +$1.00.

PROPOSAL NO. 17

§ 1126.52 [Amended]

Change § 1126.52(a)(2) in Proposal No. 1 as follows:

Mileage rates. For any plant located outside the marketing area and more than 70 miles from the City Hall of Dallas, Texas, the Class I price shall be the Class I price for Zone I less 2.0 cents per cwt. for each 10 miles or fraction thereof in excess of 70 miles that such plant is located from such city hall.

PROPOSED BY SCHEPPS DAIRY, INC., AND MARKETING ASSISTANCE PLAN, INC.

§ 1126.6 [Amended]

PROPOSAL NO. 18

Strike § 1126.6(b) in Proposal No. 1.

PROPOSAL NO. 19

Change § 1126.5(c) in Proposal No. 1 as follows:

(c) During each of the months of February through August if (i) shipments of milk or skim milk in bulk to distributing plants are not less than 75 percent of the receipts of Grade A milk at such plant during the immediately preceding months of September through November: *Provided*, that, to remain a supply plant during August, 15 percent or more of the receipts of Grade A milk at such plant is moved as milk or skim milk in bulk to a distributing plant, and (ii) the operator of such plant has filed a written request on or before January 31 with the market administrator requesting that such plant be designated as a supply plant through August of such year: *Provided further*, that this provision for qualification is subject to the provisions of § 1126.7(d)(5) hereof.

§ 1126.7 [Amended]

PROPOSAL NO. 20

Change § 1126.7(a)(1) in Proposal No. 1 by changing "15 percent" to "5 percent."

PROPOSAL NO. 21

Change § 1126.7(a)(2) in Proposal No. 1 by striking the following language:

Except that if two or more distributing plants operated by the same handler each meet the performance requirement of subparagraph (1) of this paragraph and total disposition of fluid milk products, except filled milk, on routes of such plants is 50 percent or more of receipts of Grade A milk at such plants, each such plant shall be deemed to have met the requirements of this subparagraph.

PROPOSAL NO. 22

Change § 1126.7(c) in Proposal No. 1 as follows:

(c) A milk plant located within the marketing area at which milk may be received from the farms of dairy farmers holding permits or authorizations issued by health authorities having jurisdiction in the marketing area and which is operated by a cooperative association qualified under § 1126.18 of this part which has 75 percent or more of its member producers' milk received at the pool plants of other handlers. When such a plant qualifies as a pool plant pursuant to this paragraph and also qualifies under a similar provision of another Federal order, such plant shall be a pool plant under the order to which the most milk is delivered from such plant; *Provided, however*, That even when more milk is delivered to this order, § 1126.7(d)(5) nonetheless applies.

PROPOSAL NO. 23

Add a new § 1126.7(d)(5) in Proposal No. 1 as follows:

A plant qualified pursuant to paragraphs (b) or (c) of this section which also meets the pooling requirements of another Federal order, and the market administrator determines that the Class I utilization of such other Federal order is higher than the Class I utilization of this order during the month and the pooling of said plant under this order would reduce the Class I utilization of this order during the month.

PROPOSAL NO. 24

§ 1126.20 [Amended]

Change § 1126.20 in Proposal No. 1 as follows:

A "marketing period" shall mean the fiscal year beginning April 1 and ending on March 31.

PROPOSAL NO. 25

§§ 1126.110–1126.122 [Deleted]

Strike §§ 1126.110–1126.122 in Proposal No. 1.

PROPOSAL NO. 26

§ 1126.71, 1126.72 [Deleted]

Strike §§ 1126.71 and 1126.72 in Proposal No. 1 and substitute current §§ 1126.70, 1126.90 and 1126.92 of the North Texas order that provide for payments to producers and the producer-settlement fund.

PROPOSAL NO. 27

Add a new section in Proposal No. 1 as follows:

§ 1126.____ Termination of order.

Any termination request, pursuant to 7 U.S.C. 608c(16)(B), shall be effective only if announced on or before 90 days prior to the end of the then current marketing period as specified in § 1126.20 of this part.

PROPOSAL NO. 28

Add a new section in Proposal No. 1 in which the term "receipt" and "received" are defined in the order to require actual delivery.

PROPOSED BY THE DAIRY DIVISION, AGRICULTURAL MARKETING SERVICE

PROPOSAL NO. 29

Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing:

Copies of this notice of hearing and the orders may be procured from the following Market Administrators: Mr. C. E. Dunham, Post Office Box 34689, Dallas, Texas 75234, and Mr. Earl C. Born, Post Office Box 32664, San Antonio, Texas 78212; or from the Hearing Clerk, Room 112–A, Administration Building, United States Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

Signed at Washington, D.C. on November 9, 1973.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.73-24285 Filed 11-13-73;8:45 am]

Farmers Home Administration

[FHA Instruction 471.1]

[7 CFR Part 1873]

CERTIFICATE OF BENEFICIAL OWNERSHIP

Issuance and Redemption by Reserve Bank

Notice is hereby given that the Farmers Home Administration (FHA) has under consideration a proposed addition to 7 CFR Part 1873 (37 FR 23628). The proposed Subpart B, "Issuance and Redemption of Certificate by Reserve Bank" contains regulations for the issuance, transfer, and redemption of Certificates of Beneficial Ownership issued by the Federal Reserve Bank. Certificates will be issued in registered, bearer, and book-entry form.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed amendment to the Deputy Administrator Comptroller, Farmers Home Administration, U.S. Department of Agriculture, Room 5007, South Building, Washington, D.C. 20250, on or before November 29, 1973. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Deputy Administrator Comptroller during regular business hours (8:15 a.m. to 4:45 p.m.).

As proposed, new Subpart B will read as follows:

Subpart B—Issuance and Redemption of Certificate by Reserve Bank

Sec.

AUTHORITY: 7 U.S.C. 1989, 42 U.S.C. 1480, delegation of authority by the Secretary of Agriculture, 38 FR 14944, 1498, 7 CFR 2.23, delegation of authority by the Assistant Secretary for Rural Development, 38 FR 14944, 14952, 7 CFR 2.70.

Subpart B—Issuance and Redemption of Certificate by Reserve Bank

§ 1873.11 Definition of terms.

As used in this Subpart, the following definitions will apply:

(a) "Reserve Bank" means the Federal Reserve Bank of New York (and any other Federal Reserve Bank which agrees to issue Farmers Home Administration (FHA) securities in book-entry form) as fiscal agent of the United States acting on behalf of FHA and, when indicated, acting in its individual capacity.

(b) "FHA securities" means a certificate representing beneficial ownership of notes, bonds, debentures or other similar obligations held by FHA under the Consolidated Farm and Rural Development Act and Title V of the Housing Act of 1949, issued in the form of a definitive FHA security or a book-entry FHA security.

(c) "Definitive FHA security" means a FHA security in engraved or printed form.

(d) "Book-entry FHA security" means a FHA security in the form of an entry made as prescribed in this subpart on the records of a Reserve Bank.

(e) "Pledge" includes a pledge of, or any other security interest in FHA securities as collateral for loans or advances, or to secure deposits of public monies or the performance of an obligation.

(f) "Date of call" is the date fixed in the official notice of call published in the FEDERAL REGISTER on which FHA will make payment of the security before maturity in accordance with its terms.

(g) "Member bank" means any national bank, state bank, or bank or trust company which is a member of a Reserve Bank.

§ 1873.12 Authority of Reserve Banks.

Each Reserve Bank is hereby authorized in accordance with the provisions of this subpart to:

(a) Issue book-entry FHA securities by means of entries on its records which shall include the name of the depositor, the amount, the securities title (or series) and maturity date.

(b) Effect conversions between book-entry FHA securities and definitive FHA securities.

(c) Otherwise service and maintain book-entry FHA securities.

(d) Issue a confirmation of transaction in the form of a written advice (serially numbered or otherwise) which specifies the amount and description of any securities (that is, the securities title (or series) and the maturity date) sold or transferred and the date of the transaction.

§ 1873.13 Scope and effect of book-entry procedure.

(a) A Reserve Bank as fiscal agent of the United States acting on behalf of FHA may apply the book-entry procedure provided for in this subpart to any FHA securities which have been or are hereafter deposited for any purpose in accounts with it in its individual capacity under terms and conditions which indicate that the Reserve Bank will continue to maintain such deposit accounts in its individual capacity notwithstanding application of the book-entry procedure to such securities. This paragraph shall be applicable but not limited to FHA securities deposited:

(1) As collateral pledged to a Reserve Bank (in its individual capacity) for advances by it.

(2) By a member bank for its sole account.

(3) By a member bank held for the account of its customers.

(4) In connection with deposits in a member bank of funds of States, Municipalities, or other political subdivisions.

(5) In connection with the performance of an obligation or duty under Federal, State, Municipal, or local law, or judgments or decrees of courts.

(b) The application of the book-entry procedure under this paragraph shall not derogate from or adversely affect the relationships that would otherwise exist between a Reserve Bank in its individual capacity and its depositors concerning any deposit under this paragraph. Whenever the book-entry procedure is applied to such FHA securities the Reserve Bank is authorized to take all action necessary in respect of the book-entry procedure to enable such Reserve Bank in its individual capacity to perform its obligation as depositary with respect to such FHA securities.

(c) A Reserve Bank as fiscal agent of the United States acting on behalf of FHA may apply the book-entry procedure to FHA securities deposited as collateral pledged to the United States under Treasury Department Circular Nos. 92 and 176, both as revised and amended, and may apply the book-entry procedure, with the approval of the Secretary of the Treasury, to any other FHA securities deposited with a Reserve Bank as fiscal agent of the United States.

(d) Any person having an interest in FHA securities which are deposited with a Reserve Bank (in either its individual capacity or as fiscal agent of the United States) for any purpose shall be deemed to have consented to their conversion to book-entry FHA securities pursuant to the provisions of this subpart and in the manner and under the procedures prescribed by the Reserve Bank.

(e) No deposits shall be accepted under this section on or after the date of maturity or call of FHA securities.

§ 1873.14 Transfer or pledge.

(a) A transfer or pledge of book-entry FHA securities to a Reserve Bank (in its individual capacity or as fiscal agent of the United States, or to the United States, or to any transferee or pledgee eligible to maintain an appropriate book-entry account in its name with a Reserve Bank under this subpart is effected and perfected, notwithstanding any provision of law to the contrary, by a Reserve Bank making an appropriate entry in its records of the securities transferred or pledged. The making of such an entry in the records of a Reserve Bank shall:

(1) Have the effect of a delivery in bearer form of definitive FHA securities.

(2) Have the effect of a taking of delivery by the transferee or pledgee.

(3) Constitute the transferee or pledgee a holder.

(4) If a pledge, effect a perfected security interest therein in favor of the pledgee. A transfer or pledge of book-entry FHA securities effected under this paragraph shall have priority over any transfer, pledge, or other interest, theretofore or thereafter effected or perfected

under paragraph (b) of this section or in any other manner.

(b) A transfer or pledge of transferable FHA securities, or any interest therein, which is maintained by a Reserve Bank (or its individual capacity or as fiscal agent of the United States) in a book-entry account under this subpart, including securities in book-entry form under § 1873.13(a)(3) of this part is effected, and a pledge is perfected by any means that would be effective under applicable law to effect a transfer or to effect and perfect a pledge of FHA securities, or any interest therein, if the securities were maintained by the Reserve Bank in bearer definitive form. For purposes of transfer or pledge hereunder, book-entry FHA securities maintained by a Reserve Bank shall, notwithstanding any provision of law to the contrary, be deemed to be maintained in bearer definitive form. A Reserve Bank maintaining book-entry FHA securities, either in its individual capacity or as fiscal agent of the United States, is not a bailee for the purposes of notification of pledges of these securities under this paragraph, or a third person in possession for the purposes of acknowledgment of transfers thereof under this paragraph. Where transferable FHA securities are recorded on the books of a depositary (a bank, banking institution, financial firm, or similar party, which regularly accepts in the course of its business FHA securities as a custodial service for customers, and maintains accounts in the names of such customers reflecting ownership of or interest in such securities) for account of the pledgor or transferor thereof and such securities are on deposit with a Reserve Bank in a book-entry account hereunder, such depositary shall, for purposes of perfecting a pledge of such securities or effecting delivery of such securities to a purchaser under applicable provisions of law, be the bailee to which notification of the pledge of the securities may be given or the third person in possession from which acknowledgement of the holding of the securities for the purchaser may be obtained. A Reserve Bank will not accept notice or advice of a transfer or pledge effected or perfected under this paragraph and any such notice or advise shall have no effect. A Reserve Bank may continue to deal with its depositor in accordance with the provisions of this subpart, notwithstanding any transfer or pledge effected or perfected under this paragraph.

(c) No filing or recording with a public recording office or officer shall be necessary or effective with respect to any transfer or pledge of book-entry FHA securities or any interest therein.

(d) A Reserve Bank shall, upon receipt of appropriate instructions, convert book-entry FHA securities into definitive FHA securities and deliver them in accordance with such instructions. No such conversion shall affect existing interests in such FHA securities.

(e) A transfer of book-entry FHA securities within a Federal Reserve Bank shall be made in accordance with procedures established by the Reserve Bank not inconsistent with this subpart. The transfer of book-entry FHA securities by a Reserve Bank may be made through a telegraphic transfer procedure.

(f) All requests for transfer or withdrawal must be made prior to the maturity or date of call of the securities.

§ 1873.15 Withdrawal of FHA securities.

(a) A depositor of book-entry FHA securities may withdraw them from a Reserve Bank by requesting delivery of like definitive FHA securities to itself or on its order to a transferee.

(b) FHA securities which are actually to be delivered upon withdrawal may be issued in bearer or registered form.

§ 1873.16 Delivery of FHA securities.

A Reserve Bank which has received FHA securities and effected pledges, made entries regarding them, or transferred or delivered them according to the instructions of its depositor is not liable for conversion or for participation in breach of fiduciary duty even though the depositor had no right to dispose of or take other action in respect of the securities. A Reserve Bank shall be fully discharged of its obligations under this subpart by the delivery of FHA securities in definitive form to its depositor or upon the order of such depositor. Customers of a member bank or other depositary (other than a Reserve Bank) may obtain FHA securities in definitive form only by causing the depositor of the Reserve Bank to order the withdrawal thereof from the Reserve Bank.

§ 1873.17 Registered securities.

No formal assignment shall be required for the conversion to book-entry FHA securities of registered FHA securities held by a Reserve Bank (in either its individual capacity or as fiscal agent of the United States) on the effective date of this subpart for any purpose specified in § 1873.3(a) of this part. Registered FHA securities deposited thereafter with a Reserve Bank for any purpose specified in § 1873.3 of this part shall be assigned for conversion to book-entry FHA securities.

The assignment which shall be executed in accordance with the provisions of Subpart F of 31 CFR 306, so far as applicable, shall be to Federal Reserve Bank of _____, as fiscal agent of the United States acting on behalf of Farmers Home Administration, United States Department of Agriculture, for conversion to book-entry Farmers Home Administration securities.

§ 1873.18 Servicing book-entry FHA securities, payment of interest, payment at maturity or upon call.

Interest becoming due on book-entry FHA securities shall be charged to the general account of the Treasurer of the United States on the interest due date and remitted or credited in accordance with the depositor's instructions. Such securities shall be redeemed and charged to the same account on the date of maturity or call, and the redemption proceeds, principal, and interest shall be disposed in accordance with the depositor's instructions.

§ 1873.19 Issuance and redemption.

(a) In those instances where the Reserve Bank is acting as fiscal agent of the United States acting on behalf of FHA, the following subparts of Treasury Circular No. 300 (31 CFR Part 306), so far as applicable, shall apply to such certificates.

(1) Subpart B, Registration.

(2) Subpart C, Transfers, Exchanges and Reissues.

(3) Subpart D, Redemption or Payment.

(4) Subpart E, Interest.

(5) Subpart F, Assignments of Registered Securities-General.

(6) Subpart G, Assignments by or in Behalf of Individuals.

(7) Subpart H, Assignments in Behalf of Estates of Deceased Owners.

(8) Subpart I, Assignments by or in Behalf of Trustees and Similar Fiduciaries.

(9) Subpart J, Assignments in Behalf of Private or Public Organizations.

(10) Subpart K, Attorneys in Fact.

(11) Subpart L, Transfer Through Judicial Proceedings.

(12) Subpart M, Requests for Suspension of Transactions.

(13) Subpart N, Relief for Loss, Theft, Destruction, Mutilation, or Defacement of Securities.

Dated: November 7, 1973.

J. R. HANSON,
Acting Administrator,
Farmers Home Administration.

[FR Doc.73-24225 Filed 11-13-73;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

STANDARD FOR OCCUPATIONAL EXPOSURE TO COKE OVEN EMISSIONS

Advance Notice of Proposed Rulemaking; Extension of Time

On September 19, 1973, an advance notice of proposed rulemaking relating to the Standard for Occupational Exposure to Coke Oven Emissions established under the Williams-Steiger Occupational Safety and Health Act of 1970 (Pub. L. 91-596; 84 Stat. 1590 et seq.; 29 U.S.C. 651 et seq.) was published in the FEDERAL REGISTER (38 FR 26207). Interested persons were given until November 19, 1973, to submit written data, views and arguments with respect thereto. On the basis of requests for additional time to submit such material, I hereby extend the period during which such comments will be received until January 21, 1974.

Such written comments should be submitted by mail to the following address: Office of Standards, Occupational Safety and Health Administration, Room 509 Railway Labor Building, 400 First Street NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 9th day of November, 1973.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.73-24281 Filed 11-13-73;8:45 am]

[29 CFR Part 1910]

WALKING-WORKING SURFACES

Notice of Proposed Rulemaking; Extension of Time

On September 6, 1973, a notice of proposed rulemaking relating to the Standards for Walking-Working Surfaces established under the Williams-Steiger Occupational Safety and Health Act of 1970 (Public Law 91-596; 84 Stat. 1590 et seq.; 29 U.S.C. 651 et seq.) was published in the FEDERAL REGISTER (38 FR 24300). Interested persons were given until November 2, 1973, to submit written data, views, and arguments with respect thereto. On the basis of requests for additional time to submit material, I hereby extend the period during which such comments will be received until January 7, 1974.

Such written comments should be submitted by mail to the following address: Office of Standards, Occupational Safety and Health Administration, Room 509 Railway Labor Building, 400 First Street NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 8th day of November 1973.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.73-24282 Filed 11-13-73;8:45 am]

[29 CFR Part 1904]

RECORDING OF JOB INJURIES AND ILLNESSES

Access to Records; Minor Changes

An employer subject to the Williams-Steiger Occupational Safety and Health Act of 1970, is required to maintain records of occupational injuries and illnesses of employees in accordance with the requirements of 29 CFR Part 1904.

The proposed rulemaking will amend specific provisions of the recordkeeping requirements of 29 CFR Part 1904. Most of the proposed changes are of a technical or editorial nature to clarify the recordkeeping regulations. However, the amendments include a provision designed to improve the effectiveness of the recordkeeping system in informing employees of safety and health conditions in the workplace by making the log of occupational injuries and illnesses available to an authorized representative of the employees. Under the present regulation, access to the log and other records is made available only to authorized representatives of designated Federal or State agencies. The proposed changes relating to access to the records will also include a provision designed to protect the employee who does not want to permit an examination of his occupational injury and illness record by authorized representatives of the employees. Such an employee may request in writing that the information concerning his occupational injuries or illnesses be withheld.

The Bureau of Labor Statistics has also committed itself to the revision of the current recordkeeping forms and instructions for their completion. One such revision will be the division of the lost workday category into two parts—lost workdays where the employee does not work at all, and lost workdays where an employee's activities are restricted. A second revision will be general clarification of the incidents to be recorded in each of the other categories. These changes are the result of careful study of the numerous comments that have been received since the publication of the original forms. They will not result in any overall change in the number of cases to be recorded.

BLS will not issue the new forms until January 1, 1975. Until such time, employers are to continue to utilize the present set of recordkeeping forms. Although the changes in the recordkeeping regulations contained in this proposal may in some ways seem to conflict with the language on the current recordkeeping forms, employers are reminded that the forms are to be completed according to the instructions on the forms themselves, rather than by reference to the definitions contained in the regulations, which are being revised to bring them more into accord with the statutory language.

Accordingly, it is hereby proposed to amend 29 CFR Part 1904. It is proposed that these changes become effective January 1, 1974. Interested persons are invited to submit written data, views, or arguments with respect to the proposed regulations and forms not later than December 31, 1973, to the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Washington, D.C. 20210.

Those interested in examining copies of the proposed revised recordkeeping forms and instructions to be issued next year may obtain them from the Office of the Assistant Secretary, as indicated in the preceding paragraph, from the Office of Occupational Safety and Health Statistics, Bureau of Labor Statistics, U.S. Department of Labor, Washington, D.C. 20212, and from each of the regional offices of the Bureau of Labor Statistics and the Occupational Safety and Health Administration, at the following addresses:

Mr. Wendell D. Macdonald, Assistant Regional Director, Bureau of Labor Statistics, U.S. Department of Labor, 1603 JFK Federal Building, Boston, Mass. 02203. Phone: (617) 223-4541.

Mr. Frederick W. Mueller, Assistant Regional Director, Bureau of Labor Statistics, U.S. Department of Labor, Post Office Box 13309, Philadelphia, Pa. 19101. Phone: (215) 597-1162.

Mr. William E. Rice, Assistant Regional Director, Bureau of Labor Statistics, U.S. Department of Labor, 300 South Wacker Drive, 8th Floor, Chicago, Ill. 60606. Phone: (312) 353-7253.

Mr. Elliott A. Browar, Assistant Regional Director, Bureau of Labor Statistics, Federal Office Building, 10th Floor, 911 Walnut Street, Kansas City, Mo. 64106. Phone: (816) 374-3685.

Mr. Herbert Bienstock, Assistant Regional Director, Bureau of Labor Statistics, U.S. Department of Labor, 1515 Broadway, New York, N.Y. 10036. Phone: (212) 971-5915.

Mr. Brunswick A. Bagdon, Assistant Regional Director, Bureau of Labor Statistics, U.S. Department of Labor, 1371 Peachtree Street NE., Atlanta, Ga. 30309. Phone: (404) 526-3660.

Mr. Jack F. Strickland, Assistant Regional Director, Bureau of Labor Statistics, U.S. Department of Labor, 1100 Commerce Street, Room 6B7, Dallas, Tex. 75202. Phone: (214) 749-1781.

Mr. Charles A. Roumasset, Assistant Regional Director, Bureau of Labor Statistics, 450 Golden Gate Avenue, Box 36017, San Francisco, Calif. 94102. Phone: (415) 556-8980.

Mr. Donald A. Mackenzie, Assistant Regional Director, Occupational Safety and Health Administration, 18 Oliver Street, 5th Floor, Boston, Mass. 02110. Phone: (617) 223-6712.

Mr. David H. Rhone, Assistant Regional Director, OSHA, 3535 Market Street, Gateway Building, Science Center, Room 1522, Philadelphia, Pa. 19107. Phone: (215) 597-1201.

Mr. Edward E. Estkowski, Assistant Regional Director, Occupational Safety and Health Administration, 300 South Wacker Drive, Room 1201, Chicago, Ill. 60606. Phone: (312) 353-4716.

Mr. Joseph Reidinger, Assistant Regional Director, Occupational Safety and Health Administration, Walltower Building, Room 300, 823 Walnut Street, Kansas City, Mo. 64106. Phone: (816) 374-5249.

Mr. Gabriel J. Gillotti, Assistant Regional Director, OSHA, 450 Golden Gate Avenue, 9470 Federal Building, San Francisco, Calif. 94102. Phone: (415) 556-0584.

Mr. Alfred Barden, Assistant Regional Director, Occupational Safety and Health Administration, 1515 Broadway, Room 3445, New York, N.Y. 10036. Phone: (212) 971-5754.

Mr. Basil Needham, Assistant Regional Director, Occupational Safety and Health Administration, 1375 Peachtree Street NE., Suite 587, Atlanta, Ga. 30309. Phone: (404) 526-3573.

Mr. John Barto, Assistant Regional Director, Occupational Safety and Health Administration, Texaco Building, 7th Floor, 1512 Commerce Street, Dallas, Tex. 75201. Phone: (214) 749-2477.

Assistant Regional Director, OSHA, Federal Building, Room 15010, 1961 Stout Street, Denver, Colo. 80202. Phone: (303) 837-3883.

Mr. James W. Lake, Assistant Regional Director, Occupational Safety and Health Administration, 506 Second Avenue, 1808 Smith Tower Building, Seattle, Wash. 98104. Phone: (206) 442-5930.

1. Section 1904.2 is proposed to be amended to read as follows:

§ 1904.2 Log of occupational injuries and illnesses.

(a) Except as provided in paragraph (b) of this section, each employer shall (1) maintain in each establishment a log of all recordable occupational injuries and illnesses for that establishment; and (2) enter each recordable injury and

illness on the log as early as practicable but no later than 6 working days after receiving information that a recordable case has occurred. For this purpose OSHA Form No. 100 or an equivalent which is as readable and comprehensible to a person not familiar with it shall be used. The log shall be completed in the detail provided in the form and instructions of OSHA Form No. 100.

(b) Any employer may maintain the log of all recordable occupational injuries and illnesses at a place other than the establishment or by means of data-processing equipment, or both, if, at each of the employer's establishments there is available a copy of the log which reflects separately the injury and illness experience of that establishment complete and current to a date within 45 calendar days.

2. Section 1904.4 is proposed to be amended by revising that section to read as follows:

§ 1904.4 Supplementary record.

In addition to the log of occupational injuries and illnesses provided for under § 1904.2, each employer shall have available at each establishment within 6 working days after receiving information that a recordable case has occurred, a supplementary record for each occupational injury or illness for that establishment. The record shall be completed in the detail prescribed in the instructions accompanying Occupational Safety and Health Administration Form OSHA No. 101. Workmen's compensation, insurance, or other reports are acceptable alternative records if they contain the information required by Form OSHA No. 101. If no acceptable alternative record is maintained for other purposes, Form OSHA No. 101 shall be used or the necessary information shall be otherwise maintained in a convenient form.

3. Section 1904.7 is proposed to be amended by designating the present text of that section as paragraph (a), and by adding a new paragraph (b). As amended, § 1904.7 would read as follows:

§ 1904.7 Access to records.

(a) Each employer shall provide upon request records provided for in §§ 1904.2, 1904.4, and 1904.5 for inspection and copying by Compliance Safety and Health Officers of the Occupational Safety and Health Administration, U.S. Department of Labor, during any occupational safety and health inspection provided for under Part 1903 of this chapter and section 8 of the Act, by any representative of the Bureau of Labor Statistics, U.S. Department of Labor, by any representative of the Secretary of Health, Education, and Welfare during any investigation under section 20(b) of the Act, or by any representative of a State accorded jurisdiction for occupational safety or health inspections or for statistics compilation under section 18 and 24 of the Act.

(b) (1) The log of occupational injuries and illnesses provided for in § 1904.2 of this Part shall be available in the establishment for examination in a reasonable manner and at reasonable times by any authorized representative of the employees. For purposes of this section an authorized representative of the employees shall be defined as (i) a representative for purposes of collective bargaining, or (ii) an employee of the employer who has written authorization from 2 or more employees employed in the establishment, or (iii) where 3 or fewer employees are employed in the workplace, any one of such employees.

(2) The employer shall withhold from examination the injury and illness records of an employee under paragraph (b) (1) of this section if the employee has so requested in writing. The employer shall maintain a separate file of employee requests for such withholding. The file is to be made available for inspection and copying as provided in paragraph (a) of this section.

(3) Nothing in this section shall be deemed to affect in any way any collective bargaining agreement in effect prior to the promulgation of this part, nor shall it be deemed to affect in any way the scope of collective bargaining as to safety and health matters.

4. Section 1904.12 is proposed to be amended by revising paragraphs (c) (1), (2), and (3), and by revoking paragraph (f). As amended, § 1904.12 would read as follows:

§ 1904.12 Definitions.

* * * * *

(c) "Recordable occupational injuries or illnesses of employees" are:

(1) Occupational fatalities, regardless of the time between injury and death, or the length of the illness (no recording is required for fatalities occurring after a termination of employment, except when recording may otherwise be required under a standard issued under section 6 of the Act and published in this chapter); or

(2) Occupational illnesses; or

(3) Occupational injuries which involve one or more of the following: loss of consciousness, restriction of work or motion, transfer to another job, or medical treatment (other than first aid).

* * * * *

(f) [Revoked.]

(Secs. 8(c) (1), (2), 8(g) (2), and 24(e), 84 Stat. 1599, 1600, 1615, 29 U.S.C. 657, 673).

Signed at Washington, D.C., this 25th day of October, 1973.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.73-24280 Filed 11-13-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 29]

FRUIT JELLY AND PRESERVES

Proposed Standards of Identity; Petition Filed by National Preservers Association

Notice is given that the National Preservers Association (NPA), 64 Perimeter Center East, Atlanta, GA 30346, has filed a petition proposing to revise the standards of identity for fruit jellies (21 CFR 29.2) and preserves, jams (21 CFR 29.3).

Grounds given by the petitioner in support of the proposal are to update the standards of identity to make them more meaningful and understandable to consumers and to bring them into line with processing techniques presently utilized by industry. The standards of identity for fruit jellies and preserves were first promulgated in 1940. NPA states that the present standards are classic "recipe" type standards based on the practices of homemakers and commercial establishments prior to 1940, but that the proposed amendments move the standards away from the recipe concept in line with current trends and recommendations of the White House Conference on Food, Nutrition, and Health.

A. The changes proposed by the NPA are:

1. A proposal to provide for the use of techniques other than heat to effect concentration, i.e., freeze concentration or drawing a partial vacuum so as to cause vaporization without the application of heat. NPA asserts that these processes produce as good and in most cases a superior product to that obtained by using heat to achieve concentration.

2. A proposal to provide for essence recovery and its return to the preserves. It is current industry practice to capture these volatile flavoring materials, to concentrate them separately, and to add them back to the mixture in the original proportions in which they were present in the fruit.

3. A proposal to delete the 25 percent limitation on the use of certain sweeteners. The present standard limits the use of corn sweeteners to no more than 25 percent of the total sweetening ingredients used and specifies a minimum dextrose equivalency of 40 for such corn sweeteners. This proposed amendment would have the effect of permitting manufacturers of fruit jellies and preserves to use corn sweeteners in unlimited quantities. NPA asserts that due to recent technological innovations a wide range of corn sweeteners is now available ranging from low conversion products to products sweeter than dextrose. Manufacturers can now satisfy consumer tastes ranging from a desire for less sweet preserves to a more economical approach to sweeter preserves.

The petitioner also proposes to revise the definitions of "corn syrup" and "glucose syrup" to eliminate the reference to "incomplete hydrolysis," a method no longer commonly used in the preparation of these sweeteners. The definitions proposed by the petitioner conform with those presently recommended by the Codex Alimentarius Commission and are not restricted to any specific method of preparation. The definition for "corn syrup" covers all commercially available "corn syrup" preparations. The petitioner furnished a study showing that jelly and preserve products acceptable to the consumer

were manufactured using up to 50 percent corn sweetener replacement. Petitioner believes that the interest of consumers at the present time requires a label declaration of the presence of any corn sweeteners in jelly and preserve products. Further, there is no present justification for maintaining the proportional limitation of sweeteners which may be used.

4. A proposal to delete the provision for optional use of animal fat antifoaming agents and to provide for the use of dimethylpolysiloxane. The petitioner asserts that there is a significant advantage to the use of dimethylpolysiloxane compared with various natural oils used for the same purpose in that a much smaller quantity is necessary to achieve successful control of excessive foaming. The petitioner further asserts that it would not alter the taste or physical characteristics of the food. The use of dimethylpolysiloxane would be limited to 10 ppm as specified in the food additive regulation § 121.1099 (21 CFR 121.1099).

5. A proposal to reduce the minimum soluble solids requirement of the finished preserves from 68 to 65 percent soluble solids when made from Group I fruits and to increase the amount of fruit used in preserves prepared from such Group I fruits. The present standard of identity lists fruits used in manufacturing preserves in two groups, Group I and Group II. Preserves made from fruits listed in Group I are currently cooked to not less than 68 percent soluble solids while those prepared from Group II fruits are required to be cooked to not less than 65 percent soluble solids. The NPA proposal, if adopted, would amend the standard to provide for the concentration of all preserves (from both groups of fruits) to not less than 65 percent soluble solids by weight of the finished product.

The 65 percent and 68 percent soluble solids requirements were set in 1940 when the preserves standard was promulgated. They were based on testimony in a hearing in 1939 which indicated that most of the manufacturers were concentrating preserves made from Group I fruits to a soluble solids of 68 percent at that time. The remaining preserves (Group II) were only required to be cooked to 65 percent because investigations of industry practices indicated that manufacturers had considerable difficulty in achieving 68 percent for these. Testimony was given that concentrating these fruits beyond 65 percent resulted in scorching and loss of taste and color.

The NPA gives several reasons for the need to reduce the concentration level of the fruits in the Group I preserves from 68 to 65 percent soluble solids. First, it claims that there have been significant changes in fruit ingredients since the standards were first established. NPA states changes in varieties, commercially available forms, growing conditions, etc., have resulted in the production of larger, softer fruits which cause them to be more subject to breakup and flavor and color loss when concentrated to 68 percent rather than 65 percent. This is particularly true for strawberries, the major fruit presently required to be concentrated to 68 percent.

The petitioner also claims that cooking these fruits to a soluble solids of 65 percent rather than 68 percent would improve the quality of the preserves, since the finished product would contain more whole pieces of fruit. The NPA submitted in support of this claim the Fifth Consumer Study of Fruit Spreads conducted by the Homemakers Guild of America in which 44 percent of the respondents in the national panel survey stated that large pieces in jam meant a tasty product, and an additional 19 percent viewed such pieces as a clear sign of good quality.

In addition, the NPA states that the proposed amendment would allow the same size containers to be used for preserves prepared from fruits in Group I and Group II since they would have the same density. This would eliminate the present problem of providing different size containers for the same weight for the two categories of preserves. The petitioner claims that in view of the intent of the Fair Packaging and Labeling Act towards uniformity of container size, the amendment would offer a significant advantage.

The NPA recognizes that a finished preserve that has a 65 percent soluble solids content contains less fruit than one that contains 68 percent soluble solids. The petitioner would compensate for this reduction in fruit content by proposing to raise the fruit level for Group I fruit preserves from 45 pounds (as presently required) to 47 pounds for each 55 pounds sweetening ingredient used. Such a finished product (47 pounds fruit, 55 pounds sugar, concentrated to 65 percent soluble solids) would contain approximately the same quantity of fruit as one containing 45 pounds fruit and 55 pounds sugar and concentrated to 68 percent soluble solids.

6. A proposal to provide for the declaration of all optional ingredients used in fruit jellies or preserves on the label as required by the applicable sections of 21 CFR Part 1 except that:

a. The name(s) of the fruit(s) used may be declared without specifying the particular form of the fruit(s) used.

b. The words "spice" or "spices" in the case of preserves and the words "spice" or "spices", "flavorings", and "artificial coloring", in the case of fruit jellies may be used in lieu of the common or usual name of the specific ingredients used.

c. The words "fruit acid" may be used in lieu of the common or usual names of the fruit acids used.

d. Pectin, acidifying agents, and buffering agents may be declared as "used as needed" on all preserves and jellies to which they are added.

e. If sugar or invert sugar is used, the term "sweetener" may be used; and if the sweetener is derived from corn, the term "corn sweetener" may be used.

f. Individual serving-size packages as defined in § 1.1c(a)(3) (21 CFR 1.1c(a)(3)) would be exempt from declaration of ingredients.

The proposed regulations submitted by NPA to amend §§ 29.2 and 29.3 read as follows:

PETITION FILED BY THE NATIONAL PRESERVERS ASSOCIATION

§ 29.2 Fruit jelly, identity, label statement of optional ingredients.

(a) The jellies for which definitions and standards of identity are prescribed by this section are the jelled foods each of which is made from a mixture of one or a permitted combination of the fruit juice ingredients specified in paragraph (b) of this section and one or any combination of the optional saccharine ingredients specified in paragraph (c) of this section, to which may be added one or more of the optional ingredients specified in paragraph (d) of this section, which meets the specifications in paragraph (e) of this section, and which is labeled in accordance with paragraph (f) of this section. Such mixture is concentrated with or without heat. The volatile flavoring materials or essence from such mixture may be captured during concentration, separately concentrated, and added back to any such mixture, together with any concentrated essence accompanying any optional fruit ingredient. During processing and filling of containers, the following antifoaming agents may be used: corn oil, coconut oil, cottonseed oil, mono- and di-glycerides of fat-forming fatty acids (singly or in combination, in a quantity not greater than reasonably required to inhibit foaming), or dimethylpolysiloxane complying with the requirements of § 121.1099 of this chapter, in an amount no greater than 10 parts per million by weight of the finished food.

(b)(1) Each of the fruit juice ingredients referred to in paragraph (a) of this section is the filtered or strained liquid extracted with or without the application of heat and with or without the addition of water, from one of the following mature, properly prepared fruits which are fresh, frozen and/or canned:

Name of fruit:	FACTOR REFERRED TO IN PARAGRAPH (E)(2) OF THIS SECTION
Apple	7.5
Apricot	7.0
Blackberry (other than dewberry)	10.0
Black raspberry	9.0
Boysenberry	10.0
Cherry	7.0
Crabapple	6.5
Cranberry	9.5
Damson, damson plum	7.0
Dewberry (other than boysenberry, loganberry, and youngberry)	10.0
Fig	5.5
Gooseberry	12.0
Grape	7.0
Grapefruit	11.0
Greengage, greengage plum	7.0
Guava	13.0
Loganberry	9.5
Orange	8.0
Peach	8.5
Pineapple	7.0
Plum (other than damson, greengage, and prune)	7.0

Name of fruit:	
Pomegranate	5.5
Prickly pear	11.0
Quince	7.5
Raspberry, red raspberry	9.5
Red currant, currant (other than black currant)	9.5
Strawberry	12.5
Youngberry	10.0

(2) The permitted combinations are of two, three, four, or five of the fruit juice ingredients specified in paragraph (b)(1) of this section, the weight of each is not less than one-fifth of the weight of the combination. Each such fruit juice ingredient in any such combination is an optional ingredient.

(c) The optional saccharine ingredients referred to in paragraph (a) of this section are:

(1) Sugar.
(2) Invert sugar sirup.
(3) Dextrose.
(4) Corn sirup.
(5) Dried corn sirup.
(6) Glucose sirup.
(7) Dried glucose sirup.
(8) Honey.

(d) The optional ingredients referred to in paragraph (a) of this section are:

(1) Spice.

(2) A vinegar, lemon juice, lime juice, citric acid, lactic acid, malic acid, tartaric acid, fumaric acid, or any combination of two or more of these, in a quantity which reasonably compensates for deficiency, if any, of the natural acidity of the fruit juice ingredient.

(3) Pectin, in a quantity which reasonably compensates for deficiency, if any, of the natural pectin content of the fruit juice ingredient.

(4) Sodium citrate, sodium potassium tartrate, or any combination of these in a quantity the proportion of which is not more than 3 ounces avoirdupois to each 100 pounds of the saccharine ingredient used.

(5) Sodium benzoate or benzoic acid, or any combination of these, in a quantity of reasonably necessary as a preservative.

(6) Mint flavoring and artificial green coloring, in case the fruit juice ingredient or combination of fruit juice ingredients is extracted from apple, crabapple, pineapple, or two or all of such fruits.

(7) Cinnamon flavoring, other than artificial flavoring, and artificial red coloring in case the fruit juice ingredient or combination of fruit juice ingredients is extracted from apple or crabapple or both such fruits.

(e) For the purposes of this section:

(1) The mixture referred to in paragraph (a) of this section shall contain not less than 45 parts by weight of the fruit juice ingredient as measured in accordance with paragraph (e)(2) of this section to each 55 parts by weight of saccharine ingredient as measured in accordance with paragraph (e)(4) of this section.

(2) Any requirement with respect to the weight of any fruit juice ingredient, whether prepared from concentrated, unconcentrated, or diluted fruit juice means the weight determined by the following method: (i) Determine the percent of soluble solids in such fruit juice ingredient by the method for soluble solids referred to in paragraph (e)(3) of this section; (ii) multiply the percent so found by the weight of such fruit juice ingredient; (iii) divide the result by 100; (iv) subtract from the quotient the weight of any added saccharine ingredient solids or other added solids; and (v) multiply the remainder by the factor for such fruit juice ingredient prescribed in paragraph (b) of this section. The result is the weight of the fruit juice ingredient.

(3) The soluble-solids content of the finished jelly is not less than 65 percent, as determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists,"[1] Eleventh Edition, 1970, p. 526, Sec. 31.011, under "Solids by Means of Refractometer—Official Final Action."

(4) The weight of any optional saccharine ingredient means the weight of the solids of such ingredient.

(5) The term "sugar" means refined sugar (sucrose).

(6) The term "invert sugar sirup" means a sirup made by inverting or partly inverting sugar or partly refined sugar; its ash content is not more than 0.3 percent of its solids content, but if it is made from partly refined sugar, color and flavor other than sweetness are removed.

(7) The term "corn sirup" means a clarified, concentrated, aqueous solution of nutritive saccharides obtained from cornstarch. The solids of corn sirup contain not less than 20 percent by weight of reducing sugars calculated as anhydrous dextrose. "Dried corn sirup" means the product obtained by drying "corn sirup."

(8) The term "glucose sirup" means a clarified, concentrated, aqueous solution of nutritive saccharides obtained from any edible starch. The solids of glucose sirup contain not less than 20 percent by weight of reducing sugars calculated as anhydrous dextrose. "Dried glucose sirup" means the product obtained by drying "glucose sirup."

(9) The term "dextrose" means refined anhydrous or hydrated dextrose made from any starch.

(f)(1) The name of each jelly for which a definition and standard of identity is prescribed by this section is as follows:

(i) In case the jelly is made with a single fruit juice ingredient, the name is "Jelly", preceded or followed by the name or synonym whereby the fruit from which such fruit juice ingredient was extracted is designated in paragraph (b) of this section.

(ii) In case the jelly is made with a combination of two, three, four, or five fruit juice ingredients, the name is "Jelly", preceded or followed by the words "Mixed Fruit" or by the names or synonyms whereby the fruits from which the fruit juice ingredients were extracted are designated in paragraph (b) of this section, in the order of predominance, if any, of the weights of any such fruit juice ingredients in the combination.

(2) The common or usual name of each of the optional ingredients specified in paragraphs (b), (c), and (d) of this section shall be declared on the label, except on individual serving-size packages as defined in § 1.1c(a)(3) of this chapter, as required by the applicable sections of Part 1 of this chapter, except that:

(i) The name(s) of the fruit or fruits used may be declared without specifying the particular form of the fruit or fruits used.

(ii) If the optional ingredients listed in paragraph (d)(1), (6), or (7) of this section are used, the words "spice" or "spices", "flavoring" and "artificial coloring" may be used in lieu of the common or usual name of the specific ingredients used.

(iii) If the optional ingredients listed in paragraph (d)(2) of this section are used, the words "fruit acid" may be used in lieu of the common or usual names of the fruit acids used.

(iv) The optional ingredients listed in paragraphs (d)(2), (3), and (4) of this section may be declared as "used as needed on all jellies to which they are added as necessary to compensate for natural variations in the fruit juice ingredients used."

(v) If sugar or invert sugar is used the term "sweetener" may be used, and if the sweetener is derived from corn the term "corn sweetener" may be used.

The declaration of the ingredients on the label as set forth in this paragraph shall appear in letters not less than one half of that required by § 1.8b of this chapter for the declaration of net quantity of contents.

§ 29.3 Preserves, jams; identity; label statement of optional ingredients.

(a) The preserves or jams for which definitions and standards of identity are prescribed by this section are the viscous or semi-solid foods, each of which is made from a mixture composed of one or a permitted combination of the fruit ingredients specified in paragraph (b) of this section and one or any combination of the optional saccharine ingredients specified in paragraph (c) of this section to which may be added one or more of the optional ingredients specified in paragraph (d) of this section, which meets the specifictions in paragraph (e) of this section; and which is labeled in accordance with paragraph (f) of this section. Such mixture, with or without added water, is concentrated with or without heat. The volatile flavoring material from such mixture may be captured during concentration, separately concentrated, and added back to any such mixture, together with any concentrated essence accompanying any optional fruit ingredient. During processing

[1] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

and filling of containers, the following antifoaming agents may be used: corn oil, coconut oil, cottonseed oil, mono- and diglycerides of fat-forming fatty acids (singly or in combination, in a quantity not greater than reasonably required to inhibit foaming), or dimethylpolysiloxane complying with the requirements of § 121.1099 of this chapter in an amount no greater than 10 parts per million by weight of the finished food.

(b)(1) The fruit ingredients referred to in paragraph (a) of this section are the following mature, properly prepared fruits which are fresh, concentrated, frozen and/or canned:

GROUP I

Blackberry (other than dewberry).
Black raspberry.
Blueberry.
Boysenberry.
Cherry.
Crabapple.
Dewberry (other than boysenberry, loganberry, and youngberry).
Elderberry.
Grape.
Grapefruit.
Huckleberry.
Loganberry.
Orange.
Pineapple.
Raspberry, red raspberry.
Rhubarb.
Strawberry.
Tangerine.
Tomato.
Yellow tomato.
Youngberry.

GROUP II

Apricot.
Cranberry.
Damson, damson plum.
Fig.
Gooseberry.
Greengage, greengage plum.
Guava.
Nectarine.
Peach.
Pear.
Plum (other than greengage plum and damson plum).
Quince.
Red currant, currant (other than black currant).

(2) The following combinations of fruit ingredients may be used:

(i) Any combination of two, three, four, or five of such fruits in which the weight of each is not less than one-fifth of the weight of the combination; except that the weight of pineapple may be not less than one-tenth of the weight of the combination.

(ii) Any combination of apple and one, two, three, or four of such fruits in which the weight of each is not less than one-fifth and the weight of apple is not more than one-half of the weight of the combination; except that the weight of pineapple may be not less than one-tenth of the weight of the combination.

In any combination of two, three, four, or five fruits, each such fruit is an optional ingredient. For the purposes of this section the word "fruit" includes the vegetables specified in this paragraph.

(c) The optional saccharine ingredients referred to in paragraph (a) of this section are:

(1) Sugar.
(2) Invert sugar sirup.
(3) Dextrose.
(4) Corn sirup.
(5) Dried corn sirup.
(6) Glucose sirup.
(7) Dried glucose sirup.
(8) Honey.

(d) The optional ingredients referred to in paragraph (a) of this section are:

(1) Spice.

(2) A vinegar, lemon juice, lime juice, citric acid, lactic acid, malic acid, tartaric acid, fumaric acid, or any combination of two or more of these in a quantity which reasonably compensates for deficiency, if any, of the natural acidity of the fruit ingredient.

(3) Pectin, in a quantity which reasonably compensates for deficiency, if any, of the natural pectin content of the fruit ingredient.

(4) Sodium citrate, sodium potassium tartrate, or any combination of these, in a quantity the proportion of which is not more than 3 ounces avoirdupois to each 100 pounds of the saccharine ingredient used.

(5) Sodium benzoate or benzoic acid or any combination of these, in a quantity reasonably necessary as a preservative.

(e) For the purposes of this section:

(1) The mixture referred to in paragraph (a) of this section shall be composed of not less than (i) in the case of a fruit ingredient consisting of a Group I fruit or a permitted combination exclusively of Group I fruits, 47 parts by weight of the fruit ingredient to each 55 parts by weight of the saccharine ingredient, and (ii) in all other cases, 45 parts by weight of the fruit ingredient to each 55 parts by weight of the saccharine ingredient. The weight of the fruit ingredient shall be determined in accordance with paragraph (e)(2) of this section and the weight of the saccharine ingredient shall be determined in accordance with paragraph (e)(4) of this section.

(2) Any requirement with respect to the weight of any fruit, combination of fruits, or fruit ingredient means:

(i) The weight of fruit exclusive of the weight of any sugar, water, or other substance added for any processing or packing or canning, or otherwise added to such fruit;

(ii) In the case of fruit prepared by the removal, in whole or in part, of pits, seeds, skins, cores, or other parts, the weight of such fruit, exclusive of the weight of all such substances removed therefrom; and

(iii) In the cases of apricots, cherries, grapes, nectarines, peaches, and all varieties of plums, whether or not pits and seeds are removed therefrom, the weight of such fruit, exclusive of the weight of such pits and seeds.

(iv) In the case of concentrated fruit, the weight of the properly prepared fresh fruit used to produce such concentrated fruit.

(3) The term "concentrated fruit" means a concentrate made from the properly prepared edible portion of mature, fresh or frozen fruits by removal of moisture with or without the use of heat or vacuum, but not to the point of drying. Such concentrate is canned or frozen without the addition of sugar or other sweetening agents and is identified to show or permit the calculation of the weight of the properly prepared fresh fruit used to produce any given quantity of such concentrate. The volatile flavoring material or essence from such fruits may be captured during concentration and separately concentrated for subsequent addition to the concentrated fruit either directly or during manufacture of the preserve or jam, in the original proportions present in the fruit.

(4) The weight of any optional saccharine ingredient means the weight of the solids of such ingredient.

(5) The term "sugar" means refined sugar (sucrose).

(6) The term "invert sugar sirup" means a sirup made by inverting or partly inverting sugar or partly refined sugar; its ash content is not more than 0.3 percent of its solids content, but if it is made from partly refined sugar, color and flavor other than sweetness are removed.

(7) The term "corn sirup" means a clarified, concentrated aqueous solution of nutritive saccharides obtained from cornstarch. The solids of corn sirup contain not less than 20 percent by weight of reducing sugars calculated as anhydrous dextrose. "Dried corn sirup" means the product obtained by drying "corn sirup."

(8) "Dried glucose sirup" means the product obtained by drying "glucose sirup." The term "glucose sirup" means a clarified, concentrated, aqueous solution of nutritive saccharides obtained from any edible starch. The solids of glucose sirup contain not less than 20 percent by weight of reducing sugars calculated as anhydrous dextrose.

(9) The term "dextrose" means refined anhydrous or hydrated dextrose made from any starch.

(10) The soluble-solids content of the finished jam or preserve is not less than 65 percent, as determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," Eleventh Edition, 1970, p. erence 371, Sec. 22.019. "Soluble Solids (By Refractometer) in Fresh and Canned Fruits, Jams, Marmalades, and Preserves—Official First Action," except that no correction is made for water-insoluble solids.

(f)(1) The name of each preserve or jam for which a definition and standard of identity is prescribed by this section is as follows:

(i) If the fruit ingredient is a single fruit, the name is "Preserve" or "Jam", preceded or followed by the name or synonym whereby such fruit is designated in paragraph (b) of this section.

(ii) If the fruit ingredient is a combination of two, three, four or five fruits, the name is "Preserve" or "Jam", preceded or followed by the words "Mixed

Fruit" or by the names or synonyms whereby such fruits are designated in paragraph (b) of this section, in the order of predominance, if any, of the weights of such fruits in the combination.

(2) The common or usual name of each of the optional ingredients specified in paragraphs (b), (c), and (d) of this section shall be declared on the label, except on individual serving-size packages as defined in § 1.1c(a)(3) of this chapter, as required by the applicable sections of Part 1 of this chapter, except that:

(i) The name(s) of the fruit or fruits used may be declared without specifying the particular form of the fruit or fruits used.

(ii) If the optional ingredient listed in paragraph (d)(1) of this section is used, the words "spice" or "spices" may be used in lieu of the common or usual name of the spice or spices used.

(iii) If the optional ingredients listed in paragraph (d)(2) of this section are used, the words "fruit acid" may be used in lieu of the common or usual names of the fruit acids used.

(iv) The optional ingredients listed in paragraphs (d)(2), (3), and (4) of this section may be declared as "used as needed" on all preserves or jams to which they are added as necessary to compensate for natural variations in the fruit ingredients used.

(v) If sugar or invert sugar is used the term "sweetener" may be used, and if the sweetener is derived from corn the term "corn sweetener" may be used.

The declaration of the ingredients on the label as set forth in this paragraph shall appear in letters not less than one-half of that required by § 1.8b of this chapter for the declaration of net quantity of contents.

B. The NPA proposal lists by name each of the nutritive sweeteners, acidifying agents, buffering agents, antifoaming agents, and preservatives that may be used in fruit jellies and preserves. The Commissioner proposes instead to amend both standards to provide for the use of "safe and suitable" optional ingredients in these classes. The provision for the use of safe and suitable ingredients, as defined in proposed § 10.1(d) (21 CFR 10.1(d)), published in the FEDERAL REGISTER of April 26 (38 FR 10274), is considered by the Commissioner to be in the interest of consumers because it permits manufacturers to adopt new advances in food technology to meet consumer demands without requiring manufacturers to petition to amend the standards each time a safe ingredient is found to be suitable for use and without reducing the protection of the consumer.

The NPA proposal would require the declaration of all optional ingredients on the label by their common or usual names. This proposal is in keeping with an announcement by the Commissioner that there is general agreement among industry, consumers, and the Food and Drug Administration that there should be no difference in labeling ingredients in standardized and nonstandardized foods. However, the NPA also proposes six exceptions to this requirement. In the case of two exceptions the Commissioner is of the opinion that it may be reasonable to provide that: (1) The name(s) of the fruit(s) used may be declared by its name, unqualified, without specifying that the fruit was fresh, frozen, concentrated, or canned and (2) that acidifying agents, pectin, and buffering agents may always be declared on the label qualified by the phrase "used as needed" in products to which they are customarily, but not always, added to compensate for natural variations in fruit ingredient.

The exceptions dealing with permitting the words "spice" or "spices" in the case of preserves and the words "spice" or "spices," "flavoring," and "artificial coloring" in the case of fruit jellies in lieu of the common or usual name for spices, flavoring and coloring are not necessary in light of the exemption granted by section 403(g)(2) of the act (21 U.S.C. 343(g)(2)). The labeling of spices, flavorings, and artificial colorings shall comply with § 1.12 (21 CFR 1.12).

The NPA proposal would permit the use of the words "fruit acid" in lieu of the common name of the fruit acid used. The Commissioner is of the opinion that when acidifying agents are declared on the label they should be listed by their common or usual name.

The petitioner proposes that if sugar or invert sugar is used, the term "sweetener" may be used; and if the sweetener is derived from corn, the term "corn sweetener" may be used. The Commissioner has no objection to use of the term "corn sweetener," but he is of the opinion that when sugar or invert sugar is used, the term "sugar" would be more informative to the consumer than the term "sweetener."

In regard to the proposed exemption for individual serving-size packages in paragraph (f)(2) of the NPA proposal, the Commissioner is of the opinion that the exemption should not be included in the standard, and that instead the labeling requirements of Part I should be fully applicable to those products. The requirements prescribed by 21 CFR 1.8d, as published in the FEDERAL REGISTER of March 14, 1973 (38 FR 6950), will govern placement and prominence of required label information on all foods, including standardized foods. Section 1.8d requires ingredient statements on food labels to appear in letters not less than 1/16th inch high, but provision is made in paragraph (f) of that section for petitioning for an acceptable alternative method of labeling small-size packages of foods. Accordingly, the Commissioner proposes that paragraph (f)(2) of each section of the petitioner's proposal be amended to delete the exception of individual serving-size packages from ingredient labeling requirements.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948, 21 U.S.C. 341, 371), and in accordance with authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), interested persons are invited to submit their views in writing (preferably in quintuplicate) regarding this proposal on or before January 14, 1973. Such views and comments should be addressed to the Hearing Clerk, Food and Drug Administration, Room 6-86, 5600 Fishers Lane, Rockville, MD 20852, and may be accompanied by a memorandum or brief in support thereof.

Comments received will be available for public inspection at the office of the Hearing Clerk, Room 6-86, 5600 Fishers Lane, Rockville, MD 20852, during regular business hours, Monday through Friday.

Dated: November 6, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-24198 Filed 11-13-73;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

ALABAMA STATE IMPLEMENTATION PLAN

Source Emission Regulations and Delegation of Responsibility

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved the State plan for implementing the national ambient air quality standards in Alabama.

The State of Alabama after notice and public hearing, submitted proposed revisions to its approved implementation plan altering the control strategies through modification of the emission limiting regulations. Specific emission limitations are proposed as requirements for the particulate source categories of peanut and cotton gin waste incinerators, kraft pulp mills, wood waste boilers, and primary aluminum plants. Also included as proposed plan revisions were a more restrictive emission limit for large incinerators; modification of the hydrocarbon emission limitations such that they shall only apply in Mobile County; revised restriction for volatile organic material loading facilities and definition changes which correspond to the emission limitation modifications; and, regulations which apply to visible emissions from motor vehicles and prohibit tampering, other than maintenance, with emission control devices on motor vehicles.

Also submitted were proposed plan revisions to the intergovernmental cooperation portion of the Alabama Implementation Plan. Three local agencies, the City of Huntsville, the Jefferson County Board of Health, and the Mobile County Board of Health were approved by the Alabama Air Pollution Control Commission to implement significant portions of the Alabama plan applicable in their specific jurisdictions. These agencies will function under the auspices of the State Agency without superseding any State authority.

This notice is issued to advise the public that comments may be submitted on whether the proposed revisions to the

Alabama Implementation Plan should be approved or disapproved as required by section 110 of the Clean Air Act. Only comments received by December 14, 1973 will be considered. The Administrator's decision to approve or disapprove the plan is based on whether it meets the requirements of section 110(a)(2)(A)–(H) of the Clean Air Act and EPA regulations in 40 CFR Part 51.

Copies of the proposals submitted by Alabama are available for public inspection during normal business hours at the offices of the Air Programs Branch, EPA Region IV, 1421 Peachtree Street NE., Atlanta, Georgia 30309, and at the State of Alabama Air Pollution Control Commission, 645 South McDonough Street, Montgomery, Alabama 36104. Additional copies are available at the Freedom of Information Center, EPA, 401 M Street SW., Washington, D.C. 20460. All comments should be addressed to the Regional Administrator, Environmental Protection Agency, Region IV, 1421 Peachtree Street NE., Atlanta, Georgia 30309.

(42 U.S.C. 1857 et seq.)

Dated: November 9, 1973.

RUSSELL E. TRAIN,
Administrator.

[FR Doc.73-24307 Filed 11-13-73;8:45 am]

[40 CFR Part 52]

NORTH CAROLINA STATE IMPLEMENTATION PLAN

Proposed Revision

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act, the Administrator approved the North Carolina plan to attain and maintain the national ambient air quality standards. On July 3, 1973, North Carolina submitted to EPA a proposed revision to its approved plan. This revision had received a public hearing on February 1, 1973.

This revision consists of the addition of a new regulation, Regulation No. 8, which expands and clarifies the source monitoring and reporting provisions of existing Regulation No. 6. The major features of the new regulation are as follows:

1. Any stack connected to steam generator units with a heat input of 50 million B.t.u. per hour or more, or any stack emitting process contaminants deemed by the State to constitute a possible violation of its Regulation No. 2 would have to be provided with equipment to detect and record visible emissions, the measurements to be summarized and reported to the State monthly.

2. Any source with controlled emissions of particulate matter in excess of 25 tons a year would have to furnish to the State all data necessary for the determination of its annual emissions of this pollutant.

3. Any source with controlled emissions from process operations of more than 25 tons of sulfur oxides a year would have to maintain and operate continuous monitoring and recording equipment and report measurements of sulfur oxides emitted to the State monthly, and any source burning coal or residual oil and having annual controlled emissions in excess of 25 tons of sulfur oxides a year would have to either monitor, record and report sulfur oxide emissions as just described or submit to the State monthly analyses of its fuels.

4. Any source with controlled emission of more than 25 tons a year of nitrogen dioxide would have to provide some means of measuring its emissions of this pollutant, the measurements to be reported to the State monthly.

5. All sources subject to the foregoing provisions would have to submit to the State a detailed program for complying with Regulation No. 8 within 120 days after its effective date, July 1, 1973.

This new regulation does not in any way adversely affect the dates by which the national ambient air quality standards will be attained, but rather makes the State's source surveillance program more effective and easier to administer.

Copies of the proposed plan revision submitted to EPA by North Carolina will be available for public inspection during normal business hours at the following locations:

Air Programs Branch, Environmental Protection Agency, Region IV, 1421 Peachtree Street NE., Atlanta, Ga. 30309.

State of North Carolina, Department of Natural and Economic Resources, Office of Water and Air Resources, Air Quality Division, 226 West Jones Street, Raleigh, N.C. 27611.

Interested persons are encouraged to submit written comments on the proposed plan revision. These comments will be carefully weighed by EPA before the agency decides to approve or disapprove the revision in question. Comments will be accepted by December 14, 1973. They should be addressed to the Director, Air and Water Programs Division, Environmental Protection Agency, Region IV, 1421 Peachtree Street NE., Atlanta, Georgia 30309, Attention: Mr. Helms. Receipt of comments will be acknowledged, but no substantive response will be made.

(42 U.S.C. 1857c-5)

Dated: November 9, 1973.

RUSSELL E. TRAIN,
Administrator.

[FR Doc.73-24308 Filed 11-13-73;8:45 am]

[40 CFR Part 52]

VIRGINIA STATE IMPLEMENTATION PLAN

Attainment and Maintenance of National Secondary Ambient Air Quality Standards for Particulate Matter

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act and 40 CFR, Part 51, the Administrator granted the State of Virginia an 18-month extension for submission of a plan to attain and maintain the secondary standards for particulate matter in the State Capital Intrastate Air Quality Control Region. On August 20, 1973, the Governor of Virginia submitted the plan as required.

The proposed plan does not alter or supplement the present Virginia regulations for particulate matter. Rather, a report entitled "Technical Services Support for Virginia State Capital AQCR" is submitted to demonstrate that implementation and enforcement of existing Virginia regulations in the State Capital Intrastate Region will be sufficient to achieve the secondary standards for particulate matter by 1975.

The public is invited to submit comments on whether the control strategy should be approved or disapproved as required by section 110 of the Clean Air Act. Only comments received by December 14, 1973 will be considered. The Administrator's decision to approve or disapprove the plan is based on whether it meets the requirements of section 110(a)(2)(A)–(H) of the Act and EPA regulations in 40 CFR, Part 51.

Copies of the Virginia plan are available for public inspection during normal business hours at the Offices of EPA, Region III, Curtis Building, 2nd Floor, 6th and Walnut Sts., Philadelphia, Pennsylvania 19106, and in the Office of the Virginia State Air Pollution Control Board, Room 1106, Ninth Street Office Building, Richmond, Virginia, 23219, and at the Freedom of Information Center, EPA, 401 M Street SW., Washington, D.C. 20460. All comments should be addressed to the Regional Administrator, Environmental Protection Agency, Region III, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.

(42 U.S.C. § 1857c-5.)

Dated: November 9, 1973.

RUSSELL TRAIN,
Administrator.

[FR Doc.73-24309 Filed 11-13-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19832; RM-2086]

FM BROADCAST STATIONS, KNOXVILLE, TENNESSEE

Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Knoxville, Tennessee).

1. On September 26, 1973, the Commission adopted a Notice of Proposed Rule Making in the above-captioned proceeding. Publication was given in the FEDERAL REGISTER on October 5, 1973, 38 FR 27624. Comment and reply comment dates are presently designated as November 9 and November 19, 1973.

2. On November 6, 1973, Morgan Broadcasting Company (Morgan) requested that the time for filing comments

be extended for ten days. Morgan states that the Notice requests a detailed engineering showing on various matters, therefore requiring a substantial amount of preparation. The additional time is necessary in order to complete this showing.

3. It appears that the requested extension is warranted. *Accordingly, it is ordered*, That the dates for filing comments and reply comments are extended to and including November 19 and November 30, 1973, respectively.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules.

Adopted: November 8, 1973.

Released: November 8, 1973.

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.73-24273 Filed 11-13-73;8:45 am]

[47 CFR Part 73]

[Docket No. 19861; FCC 73-1151]

NONCOMMERCIAL EDUCATIONAL BROADCAST STATIONS

Notice of Proposed Rule Making

In the matter of Amendment of Part 73 of the Commission's rules and regulations to require noncommercial educational broadcast stations to retain audio recordings under certain circumstances.

1. The Commission hereby gives notice of proposed rule making in this proceeding. This action is the first step in implementing the mandate embodied in the amendments to Section 399 of the Communications Act of 1934, as amended, contained in Pub. L. 93-84, 87 Stat. 219, approved August 6, 1973.

2. Pub. L. 93-84 authorized appropriations to the Corporation for Public Broadcasting (incorporating certain amendments in that regard) and amended section 399 of the Communications Act by the inclusion of the following:

(b)(1) Except as provided in paragraph (2), each licensee which receives assistance under this part after the date of the enactment of this subsection shall retain an audio recording of each of its broadcasts of any program in which any issue of public importance is discussed. Each such recording shall be retained for the sixty-day period beginning on the date on which the licensee broadcasts such programs.

(2) The requirements of paragraph (1) shall not apply with respect to a licensee's broadcast of a program if an entity designated by the licensee retains an audio recording of each of the licensee's broadcasts of such a program for the period prescribed by paragraph (1).[1]

(3) Each licensee and entity designated by a licensee under paragraph (2) which retains a recording under paragraph (1) or (2) shall, in the period during which such recording is required under such paragraph to be retained, make a copy of such recording available—

(A) to the Commission upon its request, and

(B) to any other person upon payment to the licensee or designated entity (as the case may be) of its reasonable cost of making such copy.

(4) The Commission shall by rule prescribe—

(A) the manner in which recordings required by this subsection shall be kept, and

(B) the conditions under which they shall be available to persons other than the Commission, giving due regard to the goals of eliminating unnecessary expense and effort and minimizing administrative burdens.

3. Thus the Commission was directed to adopt rules[2] to prescribe the manner in which the recordings required by this subsection would be kept and the circumstances under which they would be available to persons other than the Commission. To aid us in formulating rules that best serve the purpose, we seek the guidance of interested parties. It is the Commission's desire to adopt rules that respond to the Congressional mandate that recordings be retained while also responding to the clear intent that the burdens thus imposed be reduced as much as possible. Because of the variety of methodologies possible and the desire to adopt a system that imposes the least burden, we are not now formulating a specific proposal. Rather, by virtue of the comments which are received, particularly from educational stations and organizations involved in providing programming to them, we hope to be able to formulate the approach which best responds to the goals of the new law. So that interested parties might have the benefit of the guidance provided by the legislative history of the amendment to Section 399, we shall set forth pertinent points from the House and Senate Reports and the statements made in Committee and on the House floor.

4. The text of the amendment states that it applies to "programs in which any issue of public importance is discussed" but no specific attention seems to have been given to the particular choice of wording involved. Nevertheless, from a reading of the debates it seems clear that this phrase was being given the same meaning as the Commission does its phrase "controversial issue of public importance", used in fairness cases. Since there is no basis for finding an intent to give the phrasing of Section 399 a different meaning, the Commission will give both phrases the same meaning.

5. As introduced, S. 1090 did not deal with taping, but this was a point which members of the Senate Commerce Committee's Subcommittee on Communications wished to pursue. Thus, in the testimony of Hartford N. Gunn, President of the Public Broadcasting Service,[3] responses on the subject of taping were provided in response to questions posed by Senator Griffin. In the colloquy that followed, it became clear that additional information, particularly on the costs involved, was desired and it was later submitted for the record.[4] On the latter point, paragraph 5 of the submission stated:

5. For a large program supplier/distributor, or large station, additional recording costs may not be overly burdensome. Of much more serious concern to us must be the impact of such costs on a very small TV station, of which there are quite a few, with budgets under $100,000/year. Even these TV stations have few problems compared to the small noncommercial radio stations, of which there are over 500, most with total annual station budgets under $20,000 per year.

(Interestingly, as you may know, it is these small radio stations which do the greater share of local programming, averaging ¾ local, compared to 15 percent local production of the TV stations. Thus not only are these radio stations in poor financial condition, but they would face a far larger recording problem than would their large TV colleagues.)[5]

6. Although recordings were to be made of all applicable programs, whether national or local, various references were made by members of the House and Senate of a desire to avoid the imposition of unnecessary burdens. Thus, the final provisions made it clear that the licensee has a choice of making and retaining the recordings itself or of selecting another entity to do so on the licensee's behalf—see section 399(b)(2). Originally, the language of H.R. 8538 suggested that the other entity could retain the tape but apparently not be the one to record it.[6] In terms of the burden imposed, there is reason to believe that allowing another entity to perform the entire function would notably reduce the impact, as contrasted with their use for retention purposes alone. Also along this line was the comment[7] provided by the Chairman of this Commission in which he refers to the concern expressed about the burden which would be imposed on small stations, particularly radio stations.

7. In the Senate Report on S. 1090, Report No. 93-123, April 17, 1973,[8] the Committee indicated that the Commission was to be given wide latitude in

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[1] After "section 399", "(a)" was added before the existing text of that section, and this was followed by the new text under subsection "(b)". The heading was also changed to reflect inclusion of the new material.

[2] Until the rules can be adopted, affected parties should use their best judgment in how best to comply with the terms of the new requirements which became effective August 6, 1973.

[3] See pp. 111-117 Hearings on S. 1090 and S. 1228, 93d Cong. 1st Sess., before the Communications Subcommittee on the Senate Commerce Committee, Serial No. 93-10, Sessions of March 28, 29, and 30, 1973.

[4] Ibid. at 116-117.

[5] Paragraph 6 suggested that only national program suppliers be required to make recordings or that extra funds be provided if local recordings were needed. Neither suggestion was ultimately implemented.

[6] S. 1090, as introduced, did not contain any provision regarding recording.

[7] H.R. Rep. on H.R. 8538, No. 93-324, 93d Cong., 1st Sess., June 22, 1973.

[8] The original bill which had not contained a provision regarding retention of tapes had by this time been amended to impose such a requirement.

implementing the requirement including the designation of a single entity where multiple stations present a particular program. Moreover the Report continued, "It is the expressed intention of your Committee that this requirement not be redundant or otherwise burdensome on the stations." (at page 15). Although the wording of the part of the Senate bill which dealt with taping was later altered, there is no indication that any change in the view expressed in the Committee report was intended by either body.[8] In the debate on the floor of the House, Mr. Van Deerlin of the Communications Subcommittee indicated his strong feeling that censorship in any form was to be avoided and expressed his view that the bill should not be a "hunting license" but would only be a housekeeping requirement that he hoped would be little used. No contrary views were expressed at that time.

8. Clearly it is not our intent to censor and we intend, in adopting rules, to make this fact unmistakable. Moreover, the fact is that Section 399 of the Communications Act does not do more than require the keeping of certain recordings. There is nothing to indicate a congressional desire that the Commission enter into a review of the material presented by these stations and we have no such intent. Rather, since this is material already available in full to the public by merely tuning to the station, the debates make it clear that the desire was to permit access, by members of the public should they be interested in examining the text of the presentation based on the facts and not simply recollection of what was broadcast. As such, the recording merely preserves as would newspaper archives the material published by them. It has not been our past practice without these recordings to make judgments on the content of such programs and it is not now our intention with the recordings. We thus anticipate no significant change in our method of dealing with fairness complaints directed to these stations.

9. With these precepts in mind, we seek comments on how best to accomplish the purposes of the amendments to Section 399. In particular we seek views on how and under what circumstances outside entities might be involved in the process. This is primarily applicable to local programs where a single national tape recording would not be on file to provide a solution to the problem of burdensomeness. We also need to consider the basis for cost computation to be borne by parties desiring access. Although not likely to be a part of the rules, it may be that means are available to recoup unreimbursed costs, where no access is sought.[9] While we do not contemplate requiring joint efforts, logic appears to support that approach in multiple-licensee communities or areas. Finally, we need to consider what arrangements should be specified for those desiring access to the recordings.

10. Authority for the proposed amendments is contained in sections 4(i), 303 (j) and (r) and 399(b)(4) (A) and (B).

11. Pursuant to applicable procedures set forth in Section 1.415 of the Commission's Rules, interested parties may submit comments on or before December 18, 1973, and reply comments on or before December 28, 1973. All relevant and timely comments will be considered by the Commission before final action is taken.

12. In accordance with the provisions of Section 1.419 of the Commission's Rules, an original and 14 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission. These will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Headquarters, 1919 M Street NW., Washington, D.C.

Adopted: November 7, 1973.

Released: November 8, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[11]

[SEAL] VINCENT J. MULLINS, *Secretary.*

[FR Doc.73-24272 Filed 11-13-73;8:45 am]

[8] See Congressional Record, Vol. 119, No. 68 at S8401 and S8415, daily ed., May 7, 1973; Vol. 119, No. 115 at H6429, daily ed. July 20, 1973; and Vol. 119, No. 117 at S14547, daily ed. July 24, 1973.

[9] Perhaps, for example, they might form a useful function in high school civics classes and be purchased for this purpose.

[11] Commissioner Johnson concurring.

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

[Public Notice CM-86]

ADVISORY PANEL ON ACADEMIC MUSIC

Notice of Meeting

Pursuant to Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that the Advisory Panel on Academic Music will meet in Washington on November 30. The meeting will be held in Room 507, 515 22d Street NW., Washington, D.C., from 11:00 a.m. to 5:30 p.m. The meeting is open to the public from 11:00 a.m. to 12:30 p.m. For the purpose of fulfilling building security requirements, persons wishing to attend the open session must advise the Panel Chairman by telephone in advance of the meeting. Telephone 202-632-2802. The public will be admitted on a first-come, first-served basis to within the 30-seat capacity of the room.

The agenda of the meeting for the open session will cover administrative reporting on the activities of the Cultural Presentations Program which relate to the Advisory Panel on Academic Music.

Based on section b (5) and (6) of 5 U.S.C. 552, the remainder of the meeting will not be open to public participation.

It is suggested that those desiring more specific information contact the Advisory Panel Chairman, Mr. Mark B. Lewis, Department of State, 515 22d Street NW., Washington, D.C. 20520, or call area code 202-632-2802.

Dated: October 26, 1973.

MARK B. LEWIS,
Chairman, Academic Music Advisory Panel.

[FR Doc.73-24252 Filed 11-13-73;8:45 am]

[Public Notice CM-84]

ADVISORY PANEL ON FOLK MUSIC AND JAZZ

Notice of Meeting

Pursuant to Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that the Advisory Panel on Folk Music and Jazz will meet in Washington on November 28, 1973. The meeting will be held in Room 507, 515 22d Street NW., Washington, D.C., from 11:00 a.m. to 5:30 p.m. The meeting is open to the public from 11:00 a.m. to 12:30 p.m. For the purpose of fulfilling building security requirements, persons wishing to attend the open session must advise the Panel Chairman by telephone in advance of the meeting. Telephone 202-632-2802. The public will be admitted on a first-come, first-served basis to within the 30-seat capacity of the room.

The agenda of the meeting for the open session will cover administrative reporting on the activities of the Cultural Presentations Program which relate to the Advisory Panel on Folk Music and Jazz.

Based on section b (5) and (6) of 5 U.S.C. 552, the remainder of the meeting will not be open to public participation.

It is suggested that those desiring more specific information contact the Advisory Panel Chairman, Mr. Mark B. Lewis, Department of State, 515 22d Street NW., Washington, D.C. 20520, or call area code 202-632-2802.

Dated October 26, 1973.

MARK B. LEWIS,
Chairman, Folk Music and Jazz Panel.

[FR Doc.73-24251 Filed 11-13-73;8:45 am]

[Public Notice CM-85]

ADVISORY PANEL ON MUSIC

Notice of Meeting

Pursuant to Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given that the Advisory Panel on Music will meet in Washington on November 29. The meeting will be held in Room 507, 515 22d Street NW., Washington, D.C., from 11 a.m. to 5:30 p.m. The meeting is open to the public from 11 a.m. to 12:30 p.m. For the purpose of fulfilling building security requirements, persons wishing to attend the open session must advise the Panel Chairman by telephone in advance of the meeting. Telephone 202-632-2802. The public will be admitted on a first-come, first-served basis to within the 30-seat capacity of the room.

The agenda of the meeting for the open session will cover administrative reporting on the activities of the Cultural Presentations Program which relate to the Advisory Panel on Music.

Based on section b (5) and (6) of 5 U.S.C. 552, the remainder of the meeting will not be open to public participation.

It is suggested that those desiring more specific information contact the Advisory Panel Chairman, Mr. Mark B. Lewis, Department of State, 515 22d Street NW., Washington, D.C. 20520, or call area code 202-632-2802.

Dated: October 26, 1973.

MARK B. LEWIS,
Chairman, Music Advisory Panel.

[FR Doc. 73-24253 Filed 11-13-73;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Navy

ACADEMIC ADVISORY BOARD, UNITED STATES NAVAL ACADEMY

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act [Pub. L. 92-463 (1972)], notice is hereby given that a meeting of the Academic Advisory Board, United States Naval Academy, will be held from 8 a.m. to 11 a.m. on November 26, 1973, at the United States Naval Academy, Annapolis, Maryland.

The meeting will be to advise and assist the Superintendent or the Naval Academy concerning the education of midshipmen.

Dated: November 7, 1973.

H. B. ROBERTSON, Jr.,
Rear Admiral, JAGC, U.S. Navy, Acting Judge Advocate General.

[FR Doc.73-24233 Filed 11-13-73;8:45 am]

BOARD OF VISITORS, UNITED STATES NAVAL ACADEMY

Notice of Meetings

Pursuant to the provisions of the Federal Advisory Committee Act [Pub. L. 92-463 (1972)], notice is hereby given that the Board of Visitors, United States Naval Academy, will meet on December 11-12, 1973, at the United States Naval Academy, Annapolis, Maryland.

The purpose of the meetings will be to make such inquiry as the Board shall deem necessary into the state of morale and discipline, and the curriculum, instruction, physical equipment, fiscal affairs and academic methods of the Naval Academy.

Dated: November 7, 1973.

H. B. ROBERTSON, Jr.,
Rear Admiral, JAGC, U.S. Navy, Acting Judge Advocate General.

[FR Doc.73-24234 Filed 11-13-73;8:45 am]

Office of the Secretary

DEFENSE ADVISORY PANEL ON ROTC AFFAIRS

Notice of Open Meeting

Pursuant to the provisions of section 10 of Pub. L. 92-463, effective January 5, 1973, notice is hereby given that an open meeting of the Defense Advisory Panel on ROTC Affairs will be held at the Pentagon, Washington, D.C., on Tuesday, December 11, 1973.

The meeting will commence at 8:30 a.m. to discuss the ROTC programs.

MAURICE W. ROCHE,
Director, Directorate for Correspondence and Directives OASD (Comptroller).

NOVEMBER 9, 1973.

[FR Doc.73-24224 Filed 11-13-73;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

SHOSHONE DISTRICT ADVISORY BOARD

Notice of Meeting

Notice is hereby given that the Shoshone District Grazing Advisory Board will hold a regular meeting December 18–19, 1973, beginning at the District Office, 122 Cherry Street, Shoshone, Idaho, at 9:30 a.m., December 18, 1973.

The agenda for the meeting will be to reorganize the Advisory Board, to make recommendations on all types of grazing applications, transfers of base property qualifications, agreements, and other miscellaneous matters.

The meeting will be open to the public. Any interested person wishing to meet with the Advisory Board should inform the Advisory Board Chairman, Allen Bauscher, Fairfield, Id 83327, prior to the meeting. Written statements may also be filed for consideration with Mr. Bauscher.

O'DELL A. FRANDSEN,
District Manager.

[FR Doc.73-24208 Filed 11-13-73;8:45 am]

Office of Petroleum Allocation

[Order No. 1]

REDELEGATIONS OF AUTHORITY UNDER ECONOMIC STABILIZATION ACT

Reissuance

All redelegations of the authority to make determinations under, or to take action required or permitted by, section 203(a)(3) of the Economic Stabilization Act of 1970, as amended, issued by the Director, Office of Oil and Gas prior to the issuance of Secretarial Order No. 2956, dated November 6, 1973, are hereby reissued and are to remain in effect unless and until revoked by the Administrator or his designee.

Dated: November 6, 1973.

ELI T. REICH,
Administrator.

[FR Doc.73-24284 Filed 11-13-73;8:45 am]

Office of the Secretary

EASTERN BAND OF CHEROKEE INDIANS

Holding of Certain Federally Owned Lands in North Carolina in Trust

The Act of October 22, 1970 (Pub. L. 91-501, 91st Congress, 84 Stat. 1097), authorizes the Secretary of the Interior, upon the request of the Tribal Council, to declare that the United States will hold in trust for the Eastern Band of Cherokee Indians, subject to valid existing rights, all right, title and interest to any federally owned lands, including any improvements thereon, within the Cherokee Indian Reservation which the Secretary determines now or hereafter to be excess to the needs of the Government for the administration of Indian affairs. Said Act requires that notice of the declaration be published in the FEDERAL REGISTER.

On October 6, 1972, the Tribal Council of the Eastern Band of Cherokee Indians duly enacted Resolution No. 216 requesting the Secretary of the Interior to declare by publication in the FEDERAL REGISTER that the United States holds in trust for the Eastern Band of Cherokee Indians the following described land:

CHEROKEE COMMUNITY PARCEL NO. 187
(PART OF LONG BLANKET TRACTS 1 AND 2)

Beginning on Marker No. 530 set in Cherokee Community on the east right-of-way line of the Agency and school street (BIA No. 316). Said point being north 93.2' from the center of Highway No. 19 (to Bryson City) and set over a 36" culvert, 12.0' west from the east end of the culvert. Thence running along and parallel to a covered drain, and Parcel No. 55, N. 76°18' E. 496.0' to Marker No. 531. Thence turning N. 72°38' W. 14.98' to a point on a fence line. Thence running with the fence S. 75°23' W. 483.14' to the point of beginning. Containing 0.043 acre more or less.

Accordingly, pursuant to the authority contained in the said Act of October 22, 1970, supra, I hereby find the above-described federally owned land within the Cherokee Indian Reservation to be excess to the Government's need and hereby declare that all right, title and interest to the above-described land is held by the United States in trust for the Eastern Band of Cherokee Indians of North Carolina, subject to valid existing rights.

JOHN C. WHITAKER,
Acting Secretary of the Interior.

NOVEMBER 7, 1973.

[FR Doc.73-24211 Filed 11-13-73;8:45 am]

[INT DES 73-70]

KOOSKIA NATIONAL FISH HATCHERY, IDAHO

Proposed Additions and Operation; Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Pub. L. 91-190, the Department of the Interior has prepared a draft environmental statement for the proposed additions to the Kooskia National Fish Hatchery, Idaho, and invites written comments on or before December 31, 1973.

The proposed additions to the Kooskia Hatchery include buildings, biological filters, effluent treatment facilities and recirculating fish rearing ponds with associated water lines. The purpose of the construction and operation of the proposed facilities is to rear spring chinook salmon for maintaining and enhancing their runs in the Snake River and its tributaries. Impacts on the fishery resources in the ocean and the Columbia River are expected.

Copies of the draft statement are available for inspection at the following locations:

Bureau of Sport Fisheries and Wildlife, P.O. Box 3737, Portland, Oregon 97208.
Kooskia National Fish Hatchery, Route 1, Box 987, Kooskia, Idaho 83539.
Bureau of Sport Fisheries and Wildlife, Office of Environmental Quality, Department of the Interior, Room 2246, 18th and C Streets, NW., Washington, D.C. 20240.

Single copies may be obtained by writing the Chief, Office of Environmental Quality, Bureau of Sport Fisheries and Wildlife, Department of the Interior, Washington, D.C. 20240. Comments concerning the proposed action should also be addressed to the Chief, Office of Environmental Quality. Please refer to the statement number above.

Dated: November 8, 1973.

JOHN M. SEIDL,
Deputy Assistant Secretary, Program Development and Budget.

[FR Doc.73-24228 Filed 11-13-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

NATIONAL ADVISORY COUNCIL ON CHILD NUTRITION

Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby being given that the National Advisory Council on Child Nutrition, which was established to make a continuing study of the child nutrition programs of the Department of Agriculture, is scheduled to hold a meeting on November 27–28, 1973, from 9 a.m. to 4 p.m. the first day and from 9 a.m. to 4 p.m. the second day. The meeting will be held in Room 645, 500 12th Street SW., Washington, D.C. The meeting will include a review of recent program developments and the preparation of the Council's third annual report to the President and Congress on the results of its studies and recommendations. The meeting will be open to the public. Additional information can be obtained by contacting the executive secretary, Herbert D. Rorex, at 202-447-8130.

Dated: November 9, 1973.

CLAYTON YEUTTER,
Assistant Secretary and Chairman, National Advisory Council on Child Nutrition.

[FR Doc.73-24287 Filed 11-13-73;8:45 am]

DEPARTMENT OF COMMERCE

Social and Economic Statistics Administration

NUMBER OF EMPLOYEES, PAYROLLS, GEOGRAPHIC LOCATION, CURRENT STATUS AND KIND OF BUSINESS FOR THE ESTABLISHMENTS OF MULTI-ESTABLISHMENT COMPANIES

Notice of Determination for Surveys

In conformity with Title 13, United States Code, sections 181, 224, and 225, and due notice of consideration having been published on October 3, 1973 (38 FR 27431), I have determined that a 1973 Company Organization Survey is needed to provide a base for the general purpose Standard Establishment List. The survey is designed to collect information on the number of employees, payrolls, geographic location, current company organizational status and kind of business for the establishments of multi-establishment companies. The data will have significant application to the needs of the public and to governmental agencies and are not publicly available from nongovernmental or governmental sources.

Report forms will be furnished to firms included in the survey and additional copies of the forms are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed that a survey be conducted for the purpose of collecting these data.

Dated: November 9, 1973.

EDWARD D. FAILOR,
Administrator, Social and Economic Statistics Administration.

[FR Doc.73-24256 Filed 11-13-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

ASSESSMENT OF AUTOMATED BLOOD PRESSURE MEASURING DEVICES

Notice of Workshop

The National Heart and Lung Institute wishes to announce workshop on The Assessment of Automated Blood Pressure Measuring Devices on November 28 and 29, 1973, from 9 a.m. to 5 p.m., in Conference Room 7, Building 31, National Institutes of Health, Bethesda, Maryland. The purpose of the meeting will be to discuss automated blood pressure measuring devices as they relate to the needs of a mass screening program. Available devices will be reviewed. Attendance by the public will be limited to space available.

For further information please contact Dr. Bernard H. Doft, NHLI, Landow Building, Room A-922, telephone 496-5421.

Dated: November 2, 1973.

ROBERT S. STONE,
Director, National Institutes of Health.

[FR Doc.73-24248 Filed 11-13-73;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket Nos. N-73-103, N-73-109, N-73-110]

SAN FRANCISCO, LOS ANGELES, AND ATLANTA AREA OFFICES AND PHOENIX AND MEMPHIS INSURING OFFICES

Extension of Experimental Change in Procedures for Application for Approval of Projects for Mortgage Insurance and Reduction of Required Fees

Notice is hereby given of extended continuation of the experimental change in procedures and reduction of fees made applicable to letters of feasibility/conditional commitments in the area offices in San Francisco, California on August 9, 1971 (36 FR 15678, August 17, 1971), Los Angeles, California on March 1, 1972 (37 FR 6417, March 29, 1972), and Atlanta, Georgia, on March 6, 1972, and the insuring offices in Phoenix, Arizona, on February 14, 1972, and Memphis, Tennessee, on March 13, 1972, and continued in effect in such offices through October 31, 1973 (38 FR 18052, July 6, 1973). Accordingly, such changes in procedures and fees will continue in effect through and including April 30, 1974. Comment and public procedure with respect to this temporary change have been determined to be impracticable.

Issued at Washington, D.C., October 18, 1973.

SHELDON B. LUBAR,
Assistant Secretary for Housing Production and Mortgage Credit.

[FR Doc.73-24255 Filed 11-13-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

DEFECTS INVESTIGATIONS AND DETERMINATIONS

Amendment to Policy Directive

On October 12, 1973, the National Highway Traffic Safety Administration published in the FEDERAL REGISTER a statement of policy regarding defects investigations and determinations (38 FR 28316, October 12, 1973). Although no formal comment has been received respecting the substance of this public statement suggesting the need for any modification, the Administrator has decided that the implementation of the statutory scheme for defects enforcement could be further enhanced by greater public participation in the defects determination process. Accordingly, the Administrator has decided to add an additional provision to his policy statement to elicit information and comment from the public in certain non-safety defect cases. Thus, in the future, in those instances where the evidence indicates the nonexistence of a defect related to motor vehicle safety, the Administrator may, in the exercise of his discretion, call for a public proceeding in which interested parties would be afforded an opportunity to state their views and submit for the record whatever evidence is appropriate. This new policy would be in keeping with this agency's commitment to the doctrine of openness and fairness in the decision-making process.

In consideration of the foregoing, a new paragraph number 4 is added to the policy statement issued October 12, 1973, which, as amended, is set forth below.

(Sec. 113, Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1402; delegation of authority at 49 CFR 1.51).

Issued on November 9, 1973.

JAMES B. GREGORY,
Administrator.

DEFECTS INVESTIGATIONS AND DETERMINATIONS

POLICY DIRECTIVE

Section 113 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq., 1402) authorizes the National Highway Traffic Safety Administration to conduct investigations to determine whether a defect related to motor vehicle safety exists within a given class of motor vehicles or items of motor vehicle equipment. Section 113 of the Act also provides for the holding of a proceeding so that the Administrator can ultimately make a final determination as to the existence or non-existence of a safety related defect. Section 113 requires that the manufacturer of the vehicle or equipment be afforded an opportunity to present whatever views and evidence he may wish to contradict the agency's findings. If the Administrator, after reviewing the investigation file and all of the evidence presented, determines that a defect related to motor vehicle safety exists, he will direct the manufacturer to issue to the purchasers involved the safety notifications required by section 113(c) of the Act and the implementing regulations, 49 CFR Part 577.

This statutory scheme will be implemented through the following policy directives:

1. The Office of Defects Investigation will continually invite, through every means available to it, consumer or manufacturer experience with any purported defect related to safety in vehicles or equipment. It is our policy to elicit from every available source any and all information which may suggest the existence of such a defect. This information will be reviewed on a periodic basis by an appropriate panel of engineers in consultation with the legal staff to determine whether a formal investigation should be opened by the Office of Defects Investigation. Any person possessing information is requested to forward it to the Office of Defects Investigation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590.

2. Each month the Office of Defects Investigations will publish a list of its current investigations. Each investigation will be identified by make, model, model year, component involved, and a brief description of the defect under

investigation. The list will identify investigations opened and closed during the previous month as well as those being actively pursued. In exceptional cases where the information available to the Office of Defects Investigations is insufficient to warrant further consideration as to the existence or nonexistence of a defect, such an investigation will be designated as suspended in the monthly list. The investigation in such a case will be automatically closed 60 days after its appearance on the monthly list unless further evidence warranting a different disposition is received by the agency. The files of those investigations designated as suspended will be publicly available, except for materials exempt from disclosure under the Freedom of Information Act, upon their appearance on the suspended list. All investigative files, except for exempt material, will be made public as soon as each investigation is closed. In each instance where the investigation is closed because the available evidence does not warrant further investigative consideration from a safety viewpoint, the public file will contain a closing memorandum detailing such findings and conclusions.

3. Completed safety defects investigation files will be transmitted to the appropriate Associate Administrator for an initial determination of the existence of a defect related to motor vehicle safety. If he determines on the basis of a review of the investigation file that a safety related defect exists, he will commence section 113 proceedings. The manufacturer will be notified of the initial determination and will be furnished all of the information upon which the determination is based. The manufacturer will be afforded an opportunity, at a fixed time and place, to present his views and evidence in support thereof, to establish that the alleged defect does not affect motor vehicle safety. A notice of the initial determination of the existence of a safety-related defect will also appear in the FEDERAL REGISTER. This notice will advise the public of the time and place of the 113 proceedings and will invite the participation of interested persons in the proceedings. The manufacturer, and any other interested person, may submit their views and evidence through oral or written presentation, or both. There will be no cross examination of witnesses. A transcript of the proceedings will be kept and exhibits may be accepted as part of the transcript. Upon completion of the proceedings, the investigation file and all of the material received as part of the 113 proceedings will be made available to the Administrator in order that he may make a final determination as to the existence or non-existence of a safety-related defect. Ultimately, each closed file will reflect the Administrator's final determination and, if a defect is found, the manufacturer's response to the administrative directive.

4. If it is determined that a defect related to motor vehicle safety does not exist, the Administrator may, within 60 days of the date of such a determination, at his discretion in a particular case, invite interested persons to submit their views on the NHTSA investigation through a public proceeding. A notice of the date, time, and place of such a proceeding will appear in the FEDERAL REGISTER, and the proceeding will be conducted no sooner than two weeks after the investigation file in that case has been completed and made public. The notice will contain a brief description of the investigation and evidence available together with a statement explaining the determination that a defect related to motor vehicle safety does not exist. Interested persons will be invited to appear and submit their views through oral or written presentations, or both. A transcript of the proceeding will be kept and exhibits may be accepted. The transcript and all of the material received will become a part of the public case file. All of the material received through this process will be reviewed and considered by the Administrator. The Administrator may confirm his earlier finding that a defect related to motor vehicle safety does not exist or, if the new evidence received warrants, he may determine to reopen the investigation and follow the procedures outlined in Section 113 of the Act. A statement of the Administrator's final decision will be placed in the public case file.

[FR Doc.73-24265 Filed 11-13-73;8:45 am]

[Dockets Nos. 50-452 and 50-453]

ATOMIC ENERGY COMMISSION

DETROIT EDISON CO.

Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report: Time for Submission of Views on Antitrust Matter

The Detroit Edison Company (the applicant), pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, has filed an application, which was docketed September 17, 1973, for authorization to construct and operate two generating units utilizing pressurized water nuclear reactors. The application was initially tendered on June 4, 1973. Following a preliminary review for completeness, the PSAR was found to be acceptable for docketing; however, the Environmental Report was rejected for lack of sufficient information. The applicant submitted additional information on August 20, 1973, and the application was found acceptable for docketing. Docket Nos. 50-452 and 50-453 have been assigned to this application and should be referenced in any correspondence relating to it.

The proposed nuclear facilities, designated by the applicant as the Greenwood Energy Center, Units 2 and 3, are located on the applicant's site in Greenwood Township, St. Clair County, Michigan. Each unit is designed for initial operation at approximately 3429 megawatts (thermal), and a net electrical output of 1160 megawatts.

A Notice of Hearing with opportunity for public participation is being published separately.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Office of Antitrust and Indemnity, Directorate of Licensing, on or before December 31, 1973. The request should be filed in connection with Docket Nos. 50-452-A and 50-453-A.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545, and at the St. Clair County Library, 210 McMorran Boulevard, Port Huron, Michigan 48060.

The applicant has also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in Appendix D to 10 CFR Part 50, an environmental report. This report, which discusses environmental considerations related to the proposed construction of the Greenwood Energy Center, Units 2 and 3, is available for public inspection at the aforementioned locations, and is also being made available at the Office of Planning Coordination, Executive Office of the Governor, Lewis Case Building, Lansing, Michigan 48913, and the South East Michigan Council of Governments, 810 Book Building, Detroit, Michigan 48226.

After the environmental report has been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement will be prepared by the Commission. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, requesting comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials thereon will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the Regulatory staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

Dated at Bethesda, Maryland, this 16th day of October 1973.

For the Atomic Energy Commission.

A. SCHWENCER,
Chief, Pressurized Water Reactors, Branch No. 4, Directorate of Licensing.

[FR Doc.73-23007 Filed 10-30-73;8:45 am]

POWER REACTOR GUIDES

Issuance and Availability

The Atomic Energy Commission has issued three new guides in its Regulatory

Guide series. This series has been developed to describe and make available to the public methods acceptable to the AEC Regulatory staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The new guides are in Division 1, "Power Reactor Guides." Regulatory Guide 1.65, "Materials and Inspections for Reactor Vessel Closure Studs," describes materials and procedures acceptable to the AEC Regulatory staff for complying with the Commission's regulations with regard to reactor vessel closure stud bolting for light-water-cooled reactors. Regulatory Guide 1.66, "Nondestructive Examination of Tubular Products," describes a method acceptable to the AEC Regulatory Staff for implementing the Commission's regulations with regard to the nondestructive examination requirements for tubular products used for components of the reactor coolant pressure boundary and other safety-related systems in light-water-cooled reactors. Regulatory Guide 1.67, "Installation of Over-Pressure Protection Devices," describes a method acceptable to the AEC Regulatory staff for implementing the Commission's regulations with regard to the design of piping for certain safety valve and relief valve stations in light-water-cooled reactors.

Regulatory Guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Comments and suggestions in connection with improvements in the guides are encouraged and should be sent to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff. Requests for single copies of issued guides or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director of Regulatory Standards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Telephone requests cannot be accommodated. Regulatory Guides are not copyrighted and Commission approval is not required to reproduce them.

Other Division 1 Regulatory Guides currently being developed include the following:

Availability of Electric Power Sources.
Requirements for Instrumentation to Assess Nuclear Power Plant.
Conditions During and Following an Accident for Water-Cooled Reactors.
Shared Emergency and Shutdown Power Systems at Multi-Unit Sites.
Physical Independence of Safety Related Electric Systems.
Isolating Low Pressure Systems Connected to the Reactor Coolant.
Pressure Boundary.
Assumptions for Evaluating a Control Rod Ejection Accident for Pressurized Water Reactors.
Assumptions for Evaluating a Control Rod Drop Accident for Boiling Water Reactors.
Requirements for Collection, Storage, and Maintenance of Quality Assurance Records for Nuclear Power Plants.
Requirements for Assessing Ability of Material Underneath Nuclear Power Plant Foundations to Withstand Safe Shutdown Earthquake.
Qualification Tests of Electric Valve Operators for Use in Nuclear Power Plants.
Fire Protection Criteria for Nuclear Power Plants.
Protective Coatings for Nuclear Reactor Containment Facilities.
Inservice Surveillance of Grouted Prestressing Tendons.
Seismic Input Motion to Uncoupled Structural Model.
Primary Reactor Containment (Concrete) Design and Analysis.
Preservice Testing of In-Situ Components.
Category 1 Structural Foundations.
Quality Assurance Requirements for Installation, Inspection, and Testing of Mechanical Equipment and Systems.
Quality Assurance Requirements for Installation, Inspection, and Testing of Structural Concrete and Structural Steel.
Fracture Toughness Requirements for Vessels Under Overstress Conditions.
Applicability of Nickel-base Alloys and High Alloy Steels.
Material Limitations for Component Supports.
Protection Against Postulated Events and Accidents Outside of Containment.
Design Basis for Tornadoes for Nuclear Power Plants.
Requirements for Auditing of Quality Assurance Programs for Nuclear Power Plants.
Preoperational and Initial Startup Test Programs for Water-Cooled Power Reactors.
Assumptions used for Evaluating the Potential Radiological Consequences of a Boiling Water Reactor Gas Holdup Tank Failure.
Quality Assurance Requirements for Procurement of Equipment, Materials, and Services.
Quality Assurance Requirements for Lifting Equipment.
Maintenance and Testing of Batteries.
Qualification of Class I Electrical Equipment.
Type Tests for Class I Cables and Connections Installed Inside the Containment.
Seismic Qualification of Class I Electric Equipment.
Fracture Toughness Requirements for Materials for Class 2 and 3 Components.
Maintenance of Water Purity in PWR Secondary Systems.
Plastic Piping Material Properties.
Concrete Radiation Shields for Nuclear Power Plants.
Main Steam Line Sealing System Design Guidelines for Boiling Water Reactors.

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

Dated at Bethesda, Maryland, this 5th day of November 1973.

For the Atomic Energy Commission,

LESTER ROGERS,
Director of Regulatory Standards.

[FR Doc.73-24207 Filed 11-13-73;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket Nos. 25692, 25742]

CONTINENTAL AIR LINES, INC., ET AL.

Notice of Prehearing Conference

In the matter of Continental Air Lines, Inc., and Western Air Lines, Inc., for approval of equipment interchange agreement, and Alaska Airlines, Inc., and Braniff Airways, Inc., for approval of equipment interchange agreement.

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on November 30, 1973, at 10 a.m. (local time), in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Henry Whitehouse.

In order to facilitate the conduct of the conference parties are instructed to submit one copy to each party and four copies to the Judge of: (1) Proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statement of positions of parties; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before November 20, 1973, and the other parties on or before November 27, 1973. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., November 8, 1973.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.73-24276 Filed 11-13-73;8:45 am]

[Docket No. 26013]

HAWAIIAN AIRLINES, INC. AND THE CHASE MANHATTAN BANK (NATIONAL ASSOCIATION)

Notice of Proposed Approval

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the undersigned intends to issue the attached order under delegated authority. Interested persons are hereby afforded until November 23, 1973, within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., November 9, 1973.

[SEAL] WILLIAM B. CALDWELL, Jr.,
Director, Bureau of Operating Rights.

By joint application filed on October 17, 1973, Hawaiian Airlines, Inc. (Hawaiian), and The Chase Manhattan Bank (National Association) (Chase) request approval pursuant to section 408(b) of the Act of a sale and lease back transaction.

Hawaiian is a certificated air carrier authorized by the Board to provide scheduled and chartered service between all points in the State of Hawaii. Chase is a national banking association.

According to the terms of the proposed transaction, Hawaiian will sell its seven Convair 640 aircraft to Chase and contemporaneously lease those aircraft from Chase. The aircraft are presently owned by Hawaiian and are in the possession of Zantop International Airlines, Inc. (Zantop), pursuant to the lease agreement entered into by Hawaiian and Zantop, approved by the Board by Order 73-8-104, August 21, 1973.

The total sales price of the fleet will equal $4,509,150. The lease agreement provides for a basic rental payment based on the sales

price paid by Chase. Rental payments for each aircraft, to be paid on a quarterly basis, shall each equal 3.9471 percent of the sales price of each aircraft. This computes to a quarterly basic rental payment of $177,980.64 for the seven aircraft or a total annual rental payment of approximately $711,922.60. The applicants state that the effective interest rate is 8 percent. The term of the lease is nine years and the lease is renewable at the option of the lessee.

The use of the aircraft by Hawaiian under the lease back agreement is restricted, but that use specifically contemplates the currently effective lease involving Hawaiian and Zantop. Hawaiian is precluded from mortgaging, pledging or otherwise collateralising the aircraft during the term of the lease back agreement and Hawaiian is to pay all taxes and charges with the exception of local and federal income taxes. Hawaiian undertakes to maintain the registration, maintenance and operational capability of the aircraft and agrees to replace any parts which would adversely affect the operational capability of the aircraft. Hawaiian is responsible for damage to or loss of the aircraft and agrees to maintain an adequate level of insurance. Finally, events of default are specifically defined and the rights of Chase against Hawaiian in the event of default are specifically set forth.

In support of their application the applicants assert that the transaction does not affect the control of a direct air carrier, does not result in creating a monopoly and does not tend to restrain competition. The applicants also state that as the seven aircraft are presently being leased to Zantop, the consummation of the arrangement will not change the nature of Hawaiian's present operating fleet and that the transaction will materially assist Hawaiian in improving its financial situation. Finally, the applicants assert that no interested third party would be adversely affected as a result of the transaction.

No objections to the application or requests for a hearing have been received.

Notice of intent to dispose of the application without a hearing has been published in the FEDERAL REGISTER, and a copy of such notice has been furnished by the Board to the Attorney General not later than the day following the date of such publication, both in accordance with the requirements of section 408(b) of the Act.

Upon consideration of the foregoing it is concluded that the lease and purchase transactions may be subject to section 408 of the Act. It is further concluded, however, that the transactions do not affect the control of the air carrier directly engaged in the operation of aircraft in air transportation, do not result in creating a monopoly, and do not tend to restrain competition. No person disclosing a substantial interest in the proceeding is currently requesting a hearing, and it is concluded that the public interest does not require a public hearing. The transactions are similar to others approved by the Board,[1] and are not found to be inconsistent with the public interest nor does it appear that the conditions of section 408 will be unfulfilled.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.13, it is found that the foregoing transaction should be approved under section 408 of the Act, to the extent applicable, without a hearing.

Accordingly, it is ordered, That:

The subject purchase and lease transaction between Hawaiian Airlines, Inc., and The Chase Manhattan Bank (National Association) as described in the application in Docket 26013 be and it hereby is approved pursuant to section 408(b) of the Act.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within ten days from the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.73-24275 Filed 11-13-73;8:45 am]

[Docket 24488; Agreement C.A.B. 23596; Order 73-11-30]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to South Pacific Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 7th day of November, 1973.

By Order 73-9-58 dated September 14, 1973, the Board disapproved, as adverse to the public interest, IATA resolutions which established first-class and normal economy fares over the South Pacific in excess of the sum of individual sector fares.

In a petition for reconsideration filed on October 4, 1973, Pan American World Airways, Inc. (Pan American) requests that the Board approve the IATA agreement, imposing if it feels it appropriate a condition which would preclude application of a combination of intermediate sector fares over Hawaii.[1]

Pan American asserts the Board's action of disapproval is improper both as a matter of law and of regulatory policy. The carrier contends that the Board has arbitrarily applied an otherwise valid general principle concerning the relationship of through fares and the aggregate of intermediate fares to a situation in which the rationale has no application; that the Board would require that fares in an international market be set at an uneconomic level solely as a result of the fact that fares over a domestic sector which parallels part of the international route are uneconomically low; and that the Board's action would result in fares to the South Pacific which are unduly preferential or prejudicial depending on whether a particular city in the United States is or is not designated as a gateway to Hawaii.

Pan American accepts the general validity of the rule that a through fare which is higher than the aggregate of intermediate fares is ordinarily considered to be unreasonable. However, this proposition is alleged to obtain only where there is a uniform cost-based fare structure. On the other hand, the mainland-Hawaii fare structure is characterized as exceptional, and therefore cannot logically constitute a reference point for establishing other fares. Pan American states that, if the mainland-Hawaii fares were at a level consistent with the domestic fare formula, the undercuts in South Pacific fares would be eliminated entirely in nearly all markets; and contends that it would be unjustly discriminatory for the Board to require identical per-mile fare levels even after decision in the Hawaii Fares Investigation (Docket 25474), in the U.S. mainland-Hawaii and U.S. mainland-South Pacific markets, while at the same time requiring different load-factor standards in the two areas.

In support of the uneconomic nature of mainland-Hawaii fares, Pan American cites the recent carrier justifications which accompanied their requests for the increase which became effective on September 1, 1973. Pan American itself projected a return on investment for the year ending June 30, 1974, of 1.4 percent, and refers to TWA's justification which indicated that the industry would realize only a 2.4-percent return at the proposed fare levels. In these circumstances, application of the general rule that through fares not exceed the sum of intermediate fares is allegedly unreasonable per se, and should not be invoked without first determining the reasonableness of the intermediate domestic sector fares to/from Hawaii.

Pan American cites situations throughout the world which are not consonant with the general principle of a uniform fare structure which reflects through fares not in excess of the combination of intermediate sector fares. One example is the low level commonwealth fares offered by carriers of the United Kingdom and designed to encourage commerce among the widely separated states of the Commonwealth.[2] Pan American states that not many nations would accept the view that the international fare structure should be tied to the particular national interest of the United Kingdom. It is contended that the Board should be sensitive to the fact that what it would unilaterally hand other nations in the South Pacific area would create precedent for unilateral ratemaking by the British on

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[1] See Order 73-3-31, March 12, 1973, and Order 73-5-115, May 24, 1973.

[1] On November 2, 1973, Qantas Airways Limited filed a motion for leave to file an unauthorized document and an answer in support of Pan American's petition. The motion is hereby granted.

[2] Pan American also cites New York-Puerto Rico fares which they contend have been held at uneconomically low levels to assure low-cost air transportation for a particular United States ethnic market. If the Board were to seek to impose on the United States-South America international fare structure a fare reduction based on a combination of low New York-Puerto Rico fares, the Board would likewise be in serious conflict with the President's Statement of International Air Transportation Policy. With reference to fares to Puerto Rico, we would point out that an analysis of first-class and coach fares does not indicate that a situation of undercuts to South America exists. In any event, flights between South America and the U.S. mainland do not generally stop at San Juan whereas flights over the South Pacific stop at Honolulu.

the North Atlantic by virtue of its operations to Bermuda. This concept of unilateral international ratemaking is alleged to be inconsistent with the President's Statement of International Air Transportation Policy, which mandates the Board to take into account legitimate air transport interests of other countries and recognizes that in the final analysis the policy cannot be viable without international acceptance.

Pan American acknowledges that the Board's action of disapproval was to protect the less knowledgeable traveler from discrimination. As a remedy, it suggests that this problem would best be resolved were the Board to preclude the use of a combination of fares over the routing most often flown. The carrier contends that there is no evidence that any passenger actually has or will suffer the discrimination which the Board seeks to prevent, and that the Board's proposed remedy would create a greater preference and prejudice than the one it seeks to cure. Because of the manner in which fares in non-gateway Hawaii markets are constructed, a passenger traveling to the South Pacific from an interior U.S. point could, under the Board's approach, pay a higher fare than a passenger originating at a gateway city.

Upon consideration of the points raised by Pan American in its petition for reconsideration, the Board concludes that error has not been established in its decision to disapprove the IATA agreement relating to first-class and economy fares on the South Pacific route and that the petition should accordingly be denied.

Pan American's argument rests primarily on the fact that, while the general principle that through fares should not exceed the sum of local fares (either domestic or international fares or a combination of the two), such a principle can only be applied when a reasonable fare structure exists throughout. Mainland-Hawaii fares are alleged to represent an aberration which renders application of this principle unreasonable.

We do not disagree with the contention that any principle of ratemaking which has general validity must be scrutinized in its application in terms of the particular circumstances at hand. We also acknowledge that pendency of a formal investigation into fares between the mainland and Hawaii raises, in itself, a question as to the reasonableness of these fares, not the least in light of the operating results reported by carriers serving this market. On the other hand, we believe a departure from the principle that through fares should reflect the combination of available local sector fares is warranted only in the most unique circumstances, which we do not find to exist in the situation here before us. Our conviction in this regard goes back to the so-called TAN case in 1957 which dealt with the combinability of domestic fares of IATA carriers with international fares of non-IATA carriers,[3] and was more recently expressed in a general condition attached to IATA's machinery which requires carriers to permit the sale of local fares in combination with other fares so long as the conditions of travel are met.[4]

Our conclusion that the basic ratemaking principle here in question should eb adhered to in the development of fares to points in the South Pacific, so that through fares will reflect the lower level arrived at by construction over Honolulu, rests on two primary factors. First, the dollar amounts involved are significant, sufficiently so that the traveling public should not be required to pay more pending the outcome of the formal investigation into fares to Hawaii which is, of course, some months away. Second, service to South Pacific destinations is predominantly on a routing via Honolulu. Five out of every six through flights are operated in this fashion, and it is only reasonable to assume that Honolulu is a stopover point on many a passenger's itinerary. We cannot, therefore, find it consistent with the public interest to permit carriers to charge travelers a higher fare than that which is actually entailed in their route of travel. In this connection, we believe it worth noting that Pan American does not base its request for reconsideration on economic grounds or claim injury from the lower fares which would result from construction over Honolulu. The impact of the Board's action is limited to first-class and economy fares, it does not extend to the level of the various promotional fares agreed to by IATA to develop travel to the South Pacific area; and it requires no more than the reasonable fare relationship which exists on North/Central Pacific routes where comparable anomalies do not exist.

Pan American contends that there is no evidence that any passenger has actually or will suffer the discrimination which the Board describes. The fact is, however, that in the absence of disapproval of the IATA agreement every published fare to the South Pacific would reflect the IATA level. Ticket agents would quote this fare, as would most travel agents who rely principally upon the carriers for fare quotations, the carriers' memorandum tariffs, and independent publications which rely upon information from the carriers. In short, it is clear that a substantial majority of passengers would be subjected to a higher fare to destination than would be the case if they were knowledgeable enough to construct the price of their own ticket.[5]

As an alternative to outright approval of the agreement Pan American suggests that the Board preclude the combinability of intermediate sector fares over Hawaii.[6] Under the terms of the IATA machinery itself, domestic fares are combinable with internationally agreed fares, and we are unable to discern a reason to impose upon the U.S. flying public a condition which would preclude the price advantage which stems from this fact. Stated differently, we are not prepared to require that a passenger who purchases a through ticket pay more for the same service than he would be required to pay if he purchased a ticket for each segment of his journey.

We recognize that, as Pan American contends, our approach will have the effect of establishing different fares to/from U.S. cities which are commonrated under the IATA agreement. For example, the fare from the non-gateway point of Memphis will be $19 greater than that applicable from St. Louis. However, this is a result which stems from the mainland-Hawaii fare structure and does not, in our opinion, pose a valid reason for approval of the IATA South Pacific fare structure. Most importantly, all fares, whether or not de-common-rated as a result of construction via Honolulu, will be lower than those agreed to by IATA.

In view of the foregoing, the Board finds that the petition for reconsideration does not establish any error which would warrant a reversal or alteration of the Board's action in Order 73-9-58, and the petition for reconsideration will be denied. We would expect the affected IATA member carriers to take prompt steps to reach an agreement which reflects the views stated herein.[7]

Accordingly, it is ordered, That:

1. The petition for reconsideration of Order 73-9-58 filed by Pan American World Airways, Inc. is denied.

2. Quantas Airways Limited's motion to file an otherwise unauthorized document filed on November 2, 1973, is hereby granted.

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[3] 24 CAB 463 (1957).

[4] Order 72-10-1. The condition states that "No IATA resolution shall be construed as preventing any agent or carrier from selling a ticket or any number of tickets for air transportation to any person who meets the travel requirements affixed to the air fares subject to the stipulations contained in the lawful tariffs of the various carriers involved in said transportation, as filed with the Civil Aeronautics Board (where such filing is required by law)."

[5] Pan American cites by way of justification examples of low-level special interest international fares such as the "commonwealth fares." These particular fares are generally promotional rather than normal fares, and by their terms preclude combinability.

[6] Pan American indicates that precedent has been established by Order 69-5-46 wherein the Board permitted the removal of the application of domestic round-trip fare discounts from international through fares. The approval was technical and had no precedential substance because the issue was moot in that domestic round-trip discounts were no longer a part of the domestic fare structure.

[7] In the meantime, American and Pan American have filed tariffs consistent with the Board's views which became effective October 15, 1973, and will continue in effect.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.73-24277 Filed 11-13-73;8:45 am]

[Docket 18401; Order 73-11-31]

OMAHA AND DES MOINES CASE

Order Relating to Reopened Service

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 8th day of November, 1973.

Administrative Law Judge Ross I. Newmann has issued an initial decision in the above-entitled case in which he found that American Airlines should be authorized to provide competitive service over a New York-Washington-Chicago-Des Moines-Omaha-San Francisco/Los Angeles routing. By Order 73-9-88, September 24, 1973, the Board granted discretionary review of the initial decision on its own initiative.[1] Thereafter, on October 9, 1973, United Air Lines, the incumbent monopoly carrier, filed a motion requesting that the Board (a) determine whether or not a final decision in this proceeding might constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), and (b) defer the date for filing briefs to the Board in order to permit the parties to comment upon the Board's determination. United argues that a competitive award would involve a significant number of additional aircraft operations at Omaha, Des Moines, and Chicago, and would entail increased fuel consumption. Answers in opposition to United's motion were filed on October 18 by American Airlines, the City of Des Moines and the Greater Des Moines Chamber of Commerce, and the Omaha Parties. Upon consideration of these matters, the Board has determined to defer the review proceedings temporarily to permit a further exploration of the environmental issue.

At the time this proceeding was commenced, the Board did not believe that any decision in the case would come within the category of actions covered by NEPA since the proceeding did not involve one of the types of cases which the Board had determined, in its Policy Statement implementing NEPA, would generally constitute such an action. See § 399.110 of the Board's Policy Statements. Thus, our instituting order did not invoke the special procedures outlined in § 399.110. None of the parties to the case—including United—disputed this conclusion at the pretrial stages, at the hearing, or on brief to the administrative law judge. On the contrary, in response to a specific evidence request for an "explanation and documentation of environmental problems (*e.g.*, sonic, and air/water pollution), if any * * *"[2] both communities principally affected—Des Moines and Omaha—submitted statements in evidence that no adverse environmental consequences at their local airports would flow from an award of competitive authority (DSM-SR-6 and OMA-S-T-6), and they now reassert that position. The Des Moines Parties indicate that the addition of seven landings and take-offs at the Des Moines airport (a medium hub) will present no environmental problems in view of the declining volume of air carrier operations generally at the airport. Similarly, the Omaha Parties contend that additional services at Eppley Airfield in Omaha (also a medium hub) will not engender any significant environmental impact since the airport is essentially insulated on three sides by the Missouri River. Both communities also argue that the number of frequencies at O'Hare Airport in Chicago is already limited so that any new schedules would merely replace existing schedules, with no increase in total operations. Thus, there is no basis on the record before us for altering our earlier judgment that any decision in this case will not result in a major Federal action significantly affecting the quality of the environment.

Nonetheless, we note that the fuel question has only recently become of critical importance and that none of the answers have addressed the question of a possible fuel saving insofar as such saving could be of substantial benefit to the quality of the environment. Consequently, under all the circumstances, we shall accord interested persons a further opportunity to comment on the environmental effects (particularly the fuel question) which may result from Board action in this case.[3]

We shall employ a procedure which, in our judgment, will allow for a full and adequate examination of the possible environmental consequences but will avoid undue delay. Thus, we shall direct the parties to file, within 28 days of the service date of this order, the information requested in Appendix A.[4] Thereafter, the Director, Bureau of Operating Rights, on behalf of the Board, shall promptly prepare and circulate a statement with respect to the environment for consideration and comment by the parties, other environmentally concerned Federal agencies, and other interested persons.

Comments with respect to the environmental statement shall be submitted within 45 days of the date of circulation by the Director and, in the case of parties to this proceeding, shall be filed as an appendix to the parties' briefs to the Board, which shall be due at the same time.

We expect the parties to this proceeding—particularly United—to address themselves with specificity to any conclusion or factual statement contained in the Bureau Director's statement with which they disagree, and to document their disagreement, objections, or comments with detailed material, including quantitative measurements, if appropriate. The parties will provide the sources of any data contained in their comments and shall clearly identify, in detail, any estimates or hypotheses employed, and the bases thereof. If further procedures are requested, the objector should state in detail why such procedures are considered necessary, what relevant material or data the objector would expect to present or establish, and why such material is necessary to the Board's decision-making process and cannot be established or presented in written form in the objector's comments. General, vague, or unsupported objections or comments from parties will not be entertained.

Accordingly, it is ordered, That:

1. The parties are hereby directed to file the information requested in Appendix A within 28 days of the service date of this order;[5]

2. The Director, Bureau of Operating Rights, shall have an appropriate environmental statement prepared and circulated;

3. Comments with respect to the environmental statement shall be submitted by the parties and other interested persons within 45 days of the date of circulation by the Director, Bureau of Operating Rights;

4. Briefs to the Board shall be filed within 45 days of the date of circulation of the environmental statement by the Director, Bureau of Operating Rights.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,
Secretary.

APPENDIX

REOPENED SERVICE TO OMAHA AND DES MOINES CASE

[Docket 18401]

REQUEST FOR ENVIRONMENTAL INFORMATION

I. A. *Requests directed to carriers* (all requests herein are directed to each applicant

[1] Briefs to the Board were due on October 31, 1973, but the due date has been extended until November 19.

[2] See Prehearing Conference Report, served November 29, 1972, p. 18.

[3] Similarly, the record contains no information with respect to each carrier's fuel needs, the availability of fuel for the services proposed, or the effect of the fuel emergency on each applicant's ability to provide the service proposed (including, as necessary, an indication of what services might be eliminated or curtailed elsewhere on the carrier's system if the requested authority is granted). We would expect that carriers will provide the Board with detailed statements concerning these matters.

[4] The information requested is similar to that recently requested by the Bureau Director in connection with the Miami-Los Angeles Competitive Nonstop Case, Docket 24694.

[5] The Parties may, as appropriate, comply with this requirement by reference to information already contained in the record.

for new authority in markets at issue in this proceeding).[1]

1. A detailed analysis of the emission characteristics and fuel requirements of each type of aircraft that each carrier proposes to use in Calendar 1974 in the subject markets, including aircraft used on other than nonstop combination flights (e.g., one-stop, multi-stop, all-cargo). Include, if applicable, aircraft used in Calendar 1972 and 1973. This analysis should include, but need not be limited to:

a. pollutant emissions (e.g., carbon monoxide, hydrocarbons, oxides of nitrogen, particulates) for the typical landing and take-off (LTO) cycle at each of the subject airports during peak and non-peak hours;

b. total emissions of the various pollutants in an average cruise mode (i.e., other than LTO operations) for an average flight path involved in the subject markets; and

c. fuel consumption for the typical peak and non-peak hour LTO cycles, and for cruise operations, at each subject airport (or in the markets, as applicable).

The analysis should include a complete bibliography (or copies) of all documents, studies, reports, research results, etc., whether internal or external, relied upon for the above data, with appropriate references thereto in the response.

2. Provide an analysis of peak and off-peak hours at each airport for each day of the week.

3. Total frequencies (landings and take-offs at each subject airport for all air carrier and general aviation operations for calendar 1972, 1973 (first 10 months and annualized) and forecast for calendar 1974, by aircraft type and by peak and off-peak operations.[2] Single and dual engine piston and turbine equipment under 12,500 pounds gross take-off weight need only be broken down into "single-engine" and "dual-engine" categories. State with specificity the basis for the annualization of 1973 operations and the forecast of 1974 frequencies, providing a thorough explanation of forecasting methodology, and citing sources wherever applicable.

4. LTO cycle emission characteristics (see item 1.a., above) of the aircraft types listed in item 3, above, to the extent not provided in item 1, above. Single and dual engine piston and turbine equipment under 12,500 pounds gross take-off weight may be averaged, averaging "single-engine" and "dual-engine" separately.

5. Copies of any documents, whether internal or external, relating to measured and/or calculated existing air pollution levels or emissions at each subject airport and/or immediately surrounding area, and in the Air Quality Control Region (AQCR) and any other local or regional unit encompassing the subject airports for each such study, etc., have been made. In addition, calculate total aircraft emissions by type of emission for each subject airport for calendar 1972, 1973 (first 10 months and annualized) and for calendar 1974.[3]

6. Submit copies of any studies, reports, or any other documents, whether internal or external, of aircraft congestion at the subject airports and the effect of any such congestion upon typical LTO cycles, fuel consumption, and emission levels. Provide an analysis of the incremental effect of new or competitive operations in the subject markets upon aircraft congestion, LTO cycles, fuel consumption, and emissions, quantifying the effects whenever possible to do so assuming operations consistent with the service proposals of record of each applicant for additional authority in the subject markets.

7. Maps and tables for each airport indicating the noise footprint[4] of each aircraft used (in calendar 1972 and 1973) or proposed to be used (in calendar 1974) in the subject markets by the incumbent and applicant carriers to include aircraft used in other than nonstop operations.

8. An analysis of cumulative noise exposure at each airport and its environs for 1972, 1973, and 1974, utilizing the Noise Exposure Forecast Index (NEF) methodology.[5] For 1974 forecast analysis, assume operations consistent with the service proposals of record of each applicant for new authority. Also, analyze cumulative noise exposure assuming that no additional service is certificated and that operations by incumbent carriers are consistent with their service proposals of record. The analysis should take into account the area and populations falling within the NEF 40 contours, the contours within which the Department of Housing and Urban Development judges the construction of new dwelling units to be unacceptable. Source materials and any studies, reports, etc. (e.g. LTO procedures, census data) relied upon in preparing these analyses should be specifically footnoted and a bibliography provided.

9. A. List and brief description of major designated historical or archeological sites, and major recreational facilities, that will be effected, or may possibly be effected, by any changes in emissions of noise exposure resulting from the proposed services.[6] Provide a map of typical flight paths near the airports (e.g., 20-mile radius) and indicate thereon the location of the historical/archeological/recreational areas listed.

B. In addition, incumbent carriers are requested to submit the following data:

1. By aircraft type, actual total frequencies and airborne hours (other than LTO hours) in the subject markets in calendar 1972, 1973, (first 10 months and annualized), and forecast frequencies and airborne hours (other than LTO hours) for calendar 1974, the latter under each of the following assumptions: (a) no new authorizations; and (b) certification of each of the applicants in the markets. Indicate the total number of frequencies falling within the peak and off-peak periods, aircraft type and by airport in the subject markets. In addition, each response should state separately nonstop, one-stop, multi-stop and cargo frequencies by aircraft type.

2. Calculate total aircraft emission for each airport arising from each incumbent's operations in each subject market in calendar 1972, 1973 (first 10 months and annualized) and estimate for 1974, the latter under each of the assumptions set forth in item B.1., above, and assuming a 98 percent completion factor.

3. Calculate total aircraft emissions by type of emission for all flight operations by incumbent carriers in the subject markets, based upon total airborne hours, other than LTO hours) for calendar 1972, 1973 (first 10 months and annualized) and estimate for 1974, the latter under each of the assumptions set forth in B.1., above, and assuming a 98 percent completion factor.

4. Calculate for incumbent carriers total consumption of jet fuel in the subject markets for calendar 1972, 1973 (first 10 months and annualized) and estimate for 1974, the latter under each of the assumptions set forth in item B.1., above, and assuming a 98 percent completion factor.

C. In addition, each applicant carrier is requested to submit the following data:

1. By aircraft type forecast total frequencies and airborne hours (other than LTO hours) to be operated in the subject markets by the responding carriers in calendar 1974. Assume that incumbent carriers will operate consistent with the carriers' service proposals of record. Indicate the total number of frequencies falling within the peak and off-peak periods, by aircraft type and by airport in the subject markets. In addition, each response should state separately nonstop, one-stop, multi-stop and cargo frequencies, by aircraft type.

2. Estimate total aircraft emissions by type of emission for each airport for calendar 1974 arising from the respondent carrier's service proposal. Assume a 98 percent completion factor.

3. Estimate total aircraft emissions by type of emission for all flight operations by the respondent carrier in the subject markets, based upon total airborne hours (other than LTO hours), for calendar 1974. Assume a 98 percent completion factor.

4. Estimate the total consumption of jet fuel for calendar 1974 in the subject markets under the respondent carrier's service proposals.

5. Provide a statement from each respondent carrier's fuel supplier concerning the availability of fuel at each subject airport in sufficient quantities to support the proposed services. Provide also a statement from a responsible carrier official concerning the carrier's plans, if any, for (a) alternative sources of fuel for the proposed services; (b) emergency plans in the event of fuel shortages at the subject airports; and (c) the elimination or curtailment of services in other markets on the carrier's system, if necessary, so that the proposed service may be provided.

II. *The civic parties in this proceeding are requested to submit the following:*

1. Copies of any current or proposed local, regional, State, and Federal air quality control plans, procedures, and standards encompassing the areas in which the subject airports are located. If none exist, provide a statement by a responsible official to that effect.

2. Copies of any current or proposed noise abatement plans, procedures, and standards on the airport, local, regional, or state-wide level, bearing upon operations at the subject airports. If none exist, provide a statement by a responsible official to that effect.

3. Copies of any current or proposed plans, reports, studies, environmental impact statements, etc., that contemplate runway/terminal airport expansion at the subject airports, or the construction of new airports that would, or could, serve the subject markets. If none exist, provide a statement by a responsible official to that effect.

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[1] All carriers are urged to cooperate in responding to the requests herein to the extent possible. In many instances, a single response by all carriers will be sufficient. To the extent that carriers do not agree (as in forecast data), separate responses should be submitted.

[2] The 1974 forecast should exclude operations by incumbent carriers and any possible competing carrier(s) in the subject markets.

[3] The 1974 calculation should exclude operations by incumbent carriers and any possible competing carrier(s) in the subject markets. As an example for making calculations, see Airports and Their Environment—A Guide to Environmental Planning, Department of Transportation, September 1972, Chapter V, at p. 223 et seq.

[4] The noise footprint is defined as that area on the ground (expressed in acres) exposed to sound levels of 85 DbA or greater on one LTO cycle at maximum gross weight.

[5] See, Airports and Their Environment—A Guide to Environmental Planning, Department of Transportation, September 1972, Chapter II, at pp. 98–117. Forecast for August 1974. This requirement does not preclude the parties for utilizing any other commonly accepted method of measuring cumulative noise exposure. The NEF procedure is suggested simply for purposes of uniformity.

[6] List separately those sites within the NEF 40 contours. Indicate, for all areas, the nature and extent of noise or air pollution impact, if any.

4. Copies of any current or proposed local or regional land use plans, reports, studies, etc. and any environmental statements prepared thereon, that are related to or have an effect upon the subject airports or the surrounding area. If none exist, provide a statement by a responsible official to that effect.

5. Submit an analysis of each subject airport's terminal and access (roads, parking lots) capacity, average peak and non-peak hour utilizations, and emissions attributable to traffic other than aircraft (at peak and non-peak hours). Forecast for calendar 1974 the effect of new operations in the subject markets upon terminal congestion and access traffic (particularly any effect on peak-hour utilization) and the impact of such change, if any, upon emission and fuel consumption attributable to non-aircraft traffic. Assume operations consistent with the service proposals of record.

[FR Doc.73-24278 Filed 11-13-73;8:45 am]

COST OF LIVING COUNCIL

HEALTH INDUSTRY WAGE AND SALARY COMMITTEE

Notice of Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) notice is hereby given that the Health Industry Wage and Salary Committee, established under the authority of section 212(f) of the Economic Stabilization Act, as amended, section 4(a)(iv) of Executive Order 11695, and Cost of Living Council Order No. 14, will meet at 11 a.m., or at the conclusion of an earlier proceeding in which the parties to the wage case involving League of Voluntary Hospitals/Local 1199 of the Drug and Hospital Union, AFL-CIO will have presented information to the Council, on November 11, 1973, in Room 8202, 2025 M Street NW., Washington, D.C.

The agenda will be a discussion of the wage case involving Local 1199 of the Drug and Hospital Union, AFL-CIO/League of Voluntary Hospitals.

Since the above stated meeting will consist solely of discussions of a wage case currently pending before the Cost of Living Council, pursuant to authority granted me by Cost of Living Council Order 25, I have determined that the above stated meeting would fall within exemption (5) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with the operation of the Committee.

Issued in Washington, D.C., on November 10, 1973.

HENRY H. PERRITT, Jr.,
Executive Secretary,
Cost of Living Council.

[FR Doc.73-24366 Filed 11-12-73;12:03 pm]

ENVIRONMENTAL PROTECTION AGENCY

ENVIRONMENTAL IMPACT STATEMENTS

Availability of Agency Comments

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment contained in the following appendices during the period of October 1, 1973 and October 15, 1973.

Appendix I contains a listing of draft environmental impact statements reviewed and commented upon in writing during this review period. The list includes the Federal agency responsible for the statement, the number and title of the statement, the classification of the nature of EPA's comments as defined in Appendix II, and the EPA source for copies of the comments as set forth in Appendix V.

Appendix II contains the definitions of the classifications of EPA's comments on the draft environmental impact statements as set forth in Appendix I.

Appendix III contains a listing of final environmental impact statements reviewed and commented upon in writing during this reviewing period. The listing will include the Federal agency responsible for the statement, the number and title of the statement, a summary of the nature of EPA's comments, and the EPA source for copies of the comments as set forth in Appendix V.

Appendix IV contains a listing of proposed Federal agency regulations, legislation proposed by Federal agencies, and any other proposed actions reviewed and commented upon in writing pursuant to section 309(a) of the Clean Air Act, as amended, during the referenced reviewing period. The listing includes the Federal agency responsible for the proposed action, the title of the action, a summary of the nature of EPA's comments and the EPA source for copies of the comments as set forth in Appendix V.

Appendix V contains a listing of the names and addresses of the sources for copies of EPA comments listed in Appendices I, III, and IV.

Copies of the EPA Manual, setting forth the policies and procedures for EPA's review of agency actions, may be obtained by writing the Public Inquires Branch, Office of Public Affairs, Environmental Protection Agency, Washington, D.C. 20460. Copies of the draft and final environmental impact statements referenced herein are available from the originating Federal department or agency or from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

Dated: October 31, 1973.

SHELDON MEYERS,
Director,
Office of Federal Activities.

APPENDIX I

DRAFT ENVIRONMENTAL IMPACT STATEMENTS FOR WHICH COMMENTS WERE ISSUED BETWEEN OCTOBER 1, 1973 AND OCTOBER 15, 1973

Responsible Federal Agency	Title and identifying number	General nature of comments	Source for copies of comments
Department of Agriculture	D-AFS-60082-UT: Land use plan, Aquarius Planning Unit, Utah.	3	I
Do	D-AFS-65034-MT: South Fork Yaak, Multiple-use plan, Montana.	ER-2	I
Do	D-AFS-65037-MT: Interim revision Flathead National Forest (10 year plan), Montana.	LO-2	I
Do	D-SCS-30066-WI: Highway 112, critical erosion control, Ashland County, Wis.	LO-1	F
Do	D-SCS-36293-IA: Twelve Mile Creek Watershed, Adair, Ringold and Union Counties, Iowa.	ER-2	H
Do	D-AFS-65049-CA: General plan for management of National Forest lands in Lake Tahoe Basin, Calif.	LO-1	J
Corps of engineers	D-COE-39050-NY: Revised draft on the Passaic River Basin, plan of flood protection, New York and New Jersey.	ER-2	C
Do	D-COE-32441-FL: Canaveral Harbor Extension, Brevard County, Fla.	ER-2	E
Do	D-COE-36315-AZ: Indian Bend, Washington County, Maricopa, Ariz.	LO-1	J
Do	D-COE-07079-MA: Addition of Unit 2, Cape Cod Channel generating station, Sandwich, Mass.	ER-2	B
Do	D-COE-36304-IN: Flood control and recreation on the Little Calument River, Ind.	ER-2	F
Do	D-COE-32443-TX: Galveston Harbor and Channel, Tex.	ER-2	G
Do	D-COE-36312-AR: Flood control, Mississippi River and tributaries, Tensas Basin, Boeuf and Tensas Rivers, Lake Chicot pumping plan, Ark.	LO-2	G
Do	D-COE-39053-00: Operation and maintenance of Baltimore Harbor and Channels, Maryland and Virginia.	ER-2	D
Department of Defense	D-USA-41991-CA: Improvement of Doyle Drive, the Presidio of San Francisco, Calif.	LO-1	J
Federal Power Commission	D-FPC-08007-WV: Davis Pump Storage Project No. 2709, Tucker County, W. Va.	ER-2	D
General Services Administration	D-GSA-81148-WA: Portion of former San Point Naval Air Station, Wash.	ER-2	K
Department of the Interior	D-NPS-61149-MT: Proposed master plan Glacier National Park, Mont.	LO-1	I
Do	D-NPS-61151-WA: Olympic National Park, Wash.	LO-1	K
Do	D-NPS-61165-MT: Wilderness proposal Glacier National Park, Mont.	LO-1	I
Do	D-SFW-61156-MN: Rice Lake and Mille Lacs Islands Wilderness Areas, Minn.	LO-1	F
Do	D-SFW-64020-WA: Proposed operation, maintenance, and development, Turnbull Northwest Refuge, Wash.	LO-1	K

Responsible Federal Agency	Title and identifying number	General nature of comments	Source for copies of comments
Department of Transportation	D-FAA-51313-MD: Cumberland Municipal Airport, Cumberland, Md.	LO-1	D
Do	D-FAA-51301-MA: Extension of runways 4L and 9, construction STOL/GA, runway 15-33, Boston, Mass.	ER-2	B
Do	D-FAA-51314-IL: Du Page County Airport, Ill.	LO-2	F
Do	D-FHW-42006-VI: Harwood Highway between the submarine base light and the College of Virgin Islands, V.I.	ER-2	C
Do	D-FHW-41921-CO: Highway project M-7598(001) F 050-4(1), Troy Avenue, Colo.	ER-2	I
Do	D-FHW-41938-MO: Route 65, Benton County, Mo.	LO-2	H
Do	D-FHW-41939-MO: Route 7, Benton County, Mo.	LO-2	H
Do	D-FHW-41957-CO: I 15-1(5)51, Dillon South, F 241(20) Dillon interstate connection, Colo.	LO-1	I
Do	D-FHW-41980-NB: Extension of North Freeway, Douglas County, Omaha, Neb.	LO-2	H
Do	D-FHW-41992-AL: Tuscaloosa County, Holt-Peterson Road 1269, Ala.	LO-2	E
Do	D-FHW-41995-CA: Victoria Avenue extension over the Santa Clara River, Calif.	ER-2	J
Do	D-FHW-42004-KY: Jefferson County, project SP-56-468, F-552, Ky.	ER-2	E
Do	D-FHW-42005-FL: State Job 86130-1504, Broward County, Fla.	LO-2	E
Do	D-FHW-42008-KS: U.S. 81 in Sedgwick County, Kansas	LO-2	H
Do	D-FHW-50125-CT: Replace Niantic River Bridge and approaches, Waterford, Conn.	LO-2	B
Do	D-FHW-41949-MI: I-69 from U.S. 27, easterly to Morrice, Clinton, and Shiawassee Counties, Mich.	ER-2	F
Do	D-FAA-51306-MN: Thief Riverfalls Airport, Pennington County, Minn.	LO-2	F
Do	D-FHW-41996-CA: Expressway construction on Route 395 in Inyo County, Calif.	LO-1	J
Do	D-FHW-41948-LA: New Orleans Loop, Interstate 410, La.	3	G
Veterans Administration	D-VAD-81143-NY: 702 bed replacement Veterans Administration Hospital at Bronx, N.Y.	LO-2	C

Appendix II

Definition of Codes for the General Nature of EPA Comments

Environmental impact of the action

LO—Lack of Objection. EPA has no objections to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

ER—Environmental Reservations. EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives or modifications is required and has asked the originating Federal agency to reassess these aspects.

EU—Environmentally Unsatisfactory. EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

Adequacy of the Impact Statement

Category 1—Adequate. The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

Category 2—Insufficient Information. EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

Category 3—Inadequate. EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately analyzes reasonable available alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

Appendix III

Final Environmental Impact Statements for Which Comments Were Issued Between October 1, 1973 and October 15, 1973

Identifying number	Title	General nature of comments	Source for copies of comments
Department of Agriculture			
F-SCS-36320-FL:	Palatlakaha River Watershed, Lake County, Fla.	EPA has no objections to the proposed project. The final statement adequately accommodates The EPA comments on the draft statement.	E
Department of the Interior			
F-DOI-07068-UT:	Bonneville Unit of central Utah project, Utah.	EPA has environmental reservations concerning certain aspects of this project, EPA's comments on the draft statement for this project were not answered to our complete satisfaction, especially with regard to water quality degradation. EPA expects that plans for the diking and draining of Provo Bay in Utah Lake will cause eutrophication problems in Utah Lake. The transbasin diversion of Colorado River basin water will increase salinity in the Colorado River, and irrigation return flows will cause additional water pollution problems. EPA also recommended that adequate streamflows be maintained below diversion points for the maintenance of Utah's high quality trout fisheries.	I
Department of Transportation			
F-FAA-51307-WI:	Tomahak Airport, Lincoln County, Wis.	EPA has no objections to the proposed project. The final statement adequately accommodates the EPA comments on the draft.	F
F-FHW-41632-MI:	I-94, Lakeshore Drive, Berrien, Mich.	EPA has no objections to the proposed project. The final statement adequately accommodates the EPA comments on the draft.	F

Appendix IV

Regulations, Legislation and Other Federal Agency Actions for Which Comments Were Issued Between October 1, 1973 and October 15, 1973

Identifying number	Title	General nature of comments	Source for copies of comments
Atomic Energy Commission			
R-AEC-03044-00:	10 CFR Part 71, packaging and transportation of radioactive material, form for shipping plutonium.	EPA supports this regulation which would restrict the shipment of plutonium in quantities greater than 20 curies to that plutonium which is in solid form and would require special form packaging for such shipment. This regulation is an important first step in effective control of plutonium usage in the private sector.	A
Department of Commerce			
R-NOA-86022-00:	50 CFR Part 216, Marine Mammals, taking and importing.	EPA generally agrees with the proposed regulations, however, a major element of the regulations, regarding waivers from the moratorium, has been reserved for future rulemaking. EPA suggested two changes which would strengthen the environmentally protective nature of the regulation.	A
R-NOA-99051-00:	50 CFR Part 251, financial aid program procedures, proposed statement of policy and intent.	EPA concurs with the intent of the regulation to designate conditional fisheries with the goal of restricting Federal financial assistance to fisheries where this assistance would not be consistent with wise use and conservation of the fishery. EPA's comments recommend that consideration be given to preparation of an overview environmental impact statement and to the application of environmental guidelines in the decision making concerning the selection of conditional fisheries.	A

Identifying number	Title	General nature of comments	Source for copies of comments
Energy Policy Office R-EPO-00099-00:	32A CFR Chapter XIII, EPO Reg I, mandatory fuel allocation.	EPA believes that the mandatory fuel allocation program could have a significant positive or negative environmental impact, particularly on attainment of air quality standards, depending on how the program were operated. Therefore EPA recommended: (1) that an environmental impact statement be prepared on the proposal, (2) that the regulation specify how it will deal with sulfur content of fuel, (3) that State offices which allocate oil to priority users ensure that oil obtained from reserve will comply with sulfur regulations in the use area, (4) that priority be given to allocation of low-sulfur fuel to areas where necessary to meet primary air quality standards, (5) that the program apply to both distillate and residual fuel oils and that distillate fuel oil for home heating be a priority use.	A

APPENDIX V

SOURCES FOR COPIES OF EPA COMMENTS

A. Director, Office of Public Affairs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

B. Director of Public Affairs, Region I, Environmental Protection Agency, Room 2303, John F. Kennedy Federal Building, Boston, Massachusetts 02203.

C. Director of Public Affairs, Region II, Environmental Protection Agency, Room 847, 26 Federal Plaza, New York, New York 10007.

D. Director of Public Affairs, Region III, Environmental Protection Agency, Curtis Bldg., 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.

E. Director of Public Affairs, Region IV, Environmental Protection Agency, Suite 300, 1421 Peachtree Street NE., Atlanta, Georgia 30309.

F. Director of Public Affairs, Region V, Environmental Protection Agency, 1 N. Wacker Drive, Chicago, Illinois 60606.

G. Director of Public Affairs, Region VI, Environmental Protection Agency, 1600 Patterson Street, Dallas, Texas 75201.

H. Director of Public Affairs, Region VII, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, Missouri 64108.

I. Director of Public Affairs, Region VIII, Environmental Protection Agency, Lincoln Tower, Room 916, 1860 Lincoln Street, Denver, Colorado 80203.

J. Director of Public Affairs, Region IX, Environmental Protection Agency, 100 California Street, San Francisco, California 94102.

K. Director of Public Affairs, Region X, Environmental Protection Agency, 1200 6th Avenue, Seattle, Washington 98101.

[FR Doc.73-24010 Filed 11-13-73;8:45 am]

FEDERAL HOME LOAN BANK BOARD

[H. C. 164]

PACIFIC CORPORATION

Notice of Receipt of Application for Permission To Acquire Control of Pacific Savings and Loan Association

NOVEMBER 9, 1973.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from Pacific Corporation, Honolulu, Hawaii, for approval of acquisition of control of the Pacific Savings and Loan Association, Honolulu, Hawaii, an insured institution, under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and § 584.4 of the regulations for Savings and Loan Holding Companies, said acquisition to be effected by a purchase for cash and stock of Pacific Corporation of the stock of Pacific Savings and Loan Association. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, by December 14, 1973.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary, Federal Home Loan Bank Board.

[FR Doc.73-24293 Filed 11-13-73;8:45 am]

FEDERAL POWER COMMISSION

[Project No. 943-Washington]

PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY, WASHINGTON

Availability of Staff Draft Environmental Impact Statement

NOVEMBER 2, 1973.

Notice is hereby given in the captioned Project, that on November 2, 1973, as required by section 2.81(b) of Commission Order No. 415-C, a draft environmental statement prepared by the Staff of the Federal Power Commission was made available for comments. This statement deals with the environmental impact of an application filed February 15, 1973, for amendment of a major license under the Federal Power Act (16 U.S.C. 791a-825r) by Public Utility District No. 1 of Chelan County, Washington, Licensee of Rock Island Project No. 943 which is located on the Columbia River in Chelan and Douglas Counties, Washington, near the cities and towns of Chelan, Ephrata, Waterville, and Wenatchee, Washington.

This statement has been circulated for comments to Federal, State and local agencies, has been placed in the public files of the Commission, and is available for public inspection both in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426 and at its San Francisco Regional Office.

Copies may be ordered from the National Technical Information Service, Department of Commerce, Springfield, Virginia 22151, and the Federal Power Commission's Office of Public Information.

Applicant seeks Commission approval of its proposal to increase the capacity of the project by making the following alterations:

(a) Construct and operate a second powerhouse at the right bank, which would require removal of the non-overflow section, spillway bays 33 through 37, and the right bank fish ladder. The new powerhouse would contain eight 51,300 kW horizontal shaft bulb type generating units together with necessary auxiliary equipment, controls and appurtenances. Two stepup power transformers, each rated at 210 Mva, would be installed. The powerhouse structure would be of the semioutdoor type.

(b) Install and operate a new fish passage facility which would have inlets above the draft tubes at both ends of the second powerhouse and an inlet at the right abutment downstream of the draft tubes. All entrances would lead into a ladder located on the right side of the powerhouse with an exit in the forebay along the right riverbank.

(c) Install and operate additional spillway crestgate sections and reinforce the spillway structures with post-tensioned foundation anchors so that the forebay elevation may be raised for elevation 606.9 feet to elevation 613.0 feet (U.S.C. & G.S.).

(d) Extend the left bank and middle fish facilities upstream and make necessary changes for their proper functioning at the raised forebay level.

(e) Make necessary modifications to spillway regulating gates and emergency gates, and the hoisting equipment resulting from raising the forebay level and removal of spillway bays 33 through 37.

(f) Construct and operate two single-circuit, 115 kV, three phase transmission lines from the powerhouse for a distance of approximately two miles to the District's existing McKenzie switchyard and Bonneville Power Administration's Valhalla substation.

(g) Acquire certain additional parcels of land or rights to overflow in the vicinity of the forebay as required for the higher reservoir elevation.

Any person who wishes to do so may file comments on the staff draft statement for the Commission's consideration. All comments must be filed on or before December 17, 1973.

Any person who wishes to present evidence regarding environmental matters in this proceeding must file with the Commission a petition to intervene pursuant to section 1.8 of the Commission's Rules of Practice and Procedure. Petitioners must also file timely comments on the draft statement in accordance with section 2.81(c) of Order No. 415-C.

All petitions to intervene must be filed on or before December 17, 1973.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-24264 Filed 11-13-73;8:45 am]

[Docket No. RP72-99]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Order Permitting Intervention and Suspending Proposed Revised Tariff Sheets

NOVEMBER 2, 1973.

Transcontinental Gas Pipe Line Corporation (Transco) filed on May 17, 1971, tariff changes, pursuant to Order No. 431, in order to effectuate a gas curtailment policy in the event of a gas shortage. By order of November 15, 1971, in Docket No. RP71-118, the Commission approved an interim curtailment plan effective for the period November 16, 1971, through November 15, 1972, and provided that Transco file a permanent curtailment plan which it filed on January 17, 1972, in this Docket. The Commission suspended this filing and provided for a hearing. However, after discussions between Transco, its customers and the staff, an interim settlement agreement to cover the period November 16, 1972, through November 15, 1973, was arrived at which interim settlement agreement was approved by this Commission by order of November 15, 1972. On May 1, 1973, Transco filed a motion requesting a one-year extension of its interim curtailment plan which motion was denied by order of the Commission issued May 23, 1973. The Commission's May 23, 1973, order also required Transco to file an appropriate curtailment plan on or before July 1, 1973. On June 29, 1973, Transco submitted for filing in conformance with the Commission's May 23, 1973, order revised tariff sheets to its presently effective FPC Gas Tariff First Revised Volume No. 1 constituting its permanent curtailment plan. The Commission issued a notice of filing of Transco's proposed curtailment plan on July 11, 1973 (38 FR 19253). On July 6, 1973, Transco filed a renewal of its motion for a one-year extension of its interim curtailment plan, which motion deemed a motion for reconsideration was denied by our order of July 30, 1973. By order issued September 17,. 1973, the Commission denied rehearing of its its order of July 30, 1973. On October 16, 1973, Transco submitted for filing revised tariff sheets[1] to Transco's FPC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2. Transco states that these tariff sheets constitute further revisions in Transco's tariff which are necessary to implement the curtailment plan filed in this proceeding on June 29, 1973, as supplemented on July 6, 1973. Transco proposes to make the subject tariff sheets effective on November 16, 1973, in substitution for and in addition to those tariff sheets submitted in this proceeding on June 29, 1973.

Transco states that the subject tariff sheets accomplish the following changes:

(1) A new section to the General Terms and Conditions has been added to provide for penalties for unauthorized overruns of volumes established for specified periods of time during curtailment.

(2) There has been eliminated from the compensation feature of the curtailment plan the prerequisite that the Commission approve in advance the escrowing of the 25¢ collections from customers which are curtailed less than the system average. Transco proposes to implement this feature of its end-use plan commencing November 16, 1973.

(3) The boiler fuel curtailment and priority of deliveries provision in the CD, G, and OG rate schedules has been eliminated since such provision is inconsistent with the end-use curtailment plan.

(4) The method for reflecting in Transco's rates the demand charge credits and the 25¢ per Mcf debits and credits (Section 20 of the General Terms and Conditions) has been changed to reflect a uniform recovery in the three Zones on Transco's system.

(5) The demand charge credit provision and the 25¢ per Mcf debit and credit provision (sections 13.2(e) and 13.2(f) of the General Terms and Conditions) have been redrafted to reflect the planned method of implementation of the end-use plan over as long a period as possible, as spelled out above.

(6) The definitions of terms have been revised to accord with the final definitions adopted by the Commission in its Order No. 493 issued September 21, 1973.

(7) The provisions for relief from curtailment in emergency situations (Section 13.4 of the General Terms and Conditions) has been supplemented to require certain attestations from the customer seeking such relief.

In addition to the parties already granted intervention in this Docket, petitions to intervene in this proceeding have been received from: United Merchants and Manufacturers, Inc. and The State of North Carolina.

The Commission finds: (1) The proposed changes to Transco's FPC Gas Tariff have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed revised tariff sheets filed by Transco and that such tariff sheets be suspended and the use thereof be deferred as herein provided.

(3) The participation in the above-named petitioners may be in the public interest.

The Commission orders: (A) Pending hearing and decision on the issues raised by Transco's filing in Docket No. RP72-99, the proposed tariff sheets filed by Transco, and identified in footnote 1, are hereby suspended and the use thereof is deferred until November 16, 1973, at which time they are made effective in the manner prescribed by the Natural Gas Act.

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

By the Commission. Commissioner Springer, concurring in part, filed a separate statement appended hereto.[1]

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.73-24262 Filed 11-13-73;8:45 am]

[1] First Revised Volume No. 1: First Revised Sheet Nos. 7, 8, 9, 10, 11, 13, 14, 17, 18, 19, 21, 23, 24, 25, 32, 33, 81, 119, 145, 146, 150, 151, 152, 153, 154, 158, and 159; Second Revised Sheet Nos. 12, 20, 26, 136, and 155; Substitute Second Revised Sheet Nos. 138, 139, 141, and 142; Third Revised Sheet No. 140; Substitute First Revised Sheet No. 143 and Second Substitute First Revised Sheet No. 144. Original Volume No. 2: Second Revised Sheet No. 1-A.

FEDERAL RESERVE SYSTEM

BANK OF VIRGINIA CO.

Order Approving Acquisition of Bank

Bank of Virginia Company, Richmond, Virginia, 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 (less directors' qualifying shares) of Bank of Virginia-Petersburg, Petersburg, Virigina (Bank), a proposed new bank.

Notice of the application, affording opportunity for interested persons to submit comments and views has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is the fourth largest banking organization in Virginia and controls 15 banks with aggregate deposits of $1 billion, which represents approximately 8.9 percent of total deposits of commercial banks in the Commonwealth.[1] Applicant presently controls two branch offices in the Petersburg market[2] through Applicant's lead bank, Bank of Virginia-Central. Bank of Virginia-Central branch offices rank third in the market with total deposits of $30.2 million, or 21 percent of the total market deposits. However, due to Virginia's limited branching law, Bank of Virginia-Central cannot establish additional de novo branches in the

[1] Filed as part of the original document.
[1] All banking data are as of June 30, 1973.
[2] The market is approximated by the Petersburg SMSA, which includes the cities of Petersburg, Colonial Heights, and Hopewell, and the counties of Dinwiddie and Prince George.

Petersburg market. Consequently, Applicant has organized the proposed new bank which plans, upon consummation of the proposal, to acquire the assets and assume the liabilities of the Petersburg office of Bank of Virginia-Central.

The proposed transaction, as described above, would itself have no adverse effects on competition. However, approval of the proposed acquisition would permit Applicant to substitute into the market area one of its affiliates, with full branching power, for another, which presently has no such power. The increased flexibility which this reorganization will provide Applicant will enable it to compete more effectively with other locally based financial institutions in the market, as well as provide customers with a banking location more accessible to their homes and businesses. Thus, both competitive factors and convenience and needs considerations weigh in favor of approval.

The financial and managerial resources and future prospects of Applicant and its subsidiaries are deemed good. Therefore, banking factors are consistent with approval of the application. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made: (a) Before the thirtieth calendar day following the effective date of this Order or (b) later than three months after that date, and (c) Bank of Virginia-Petersburg, Petersburg, Virginia, shall be opened for business not later than six months after the effective date of this Order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Board of Governors,[1] effective November 6, 1973.

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

[FR Doc.73-24230 Filed 11-13-73;8:45 am]

MERCANTILE BANKSHARES CORP.

Order Approving Acquisition of Bank

Mercantile Bankshares Corporation, Baltimore, Maryland, 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 100 percent, but not less than 80 percent, of the voting shares of The Commerce Bank and Trust Company of Maryland, Bethesda, Maryland (Bank), an organizing State 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 and the time for filing comments and views has expired. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls eight banks with aggregate deposits, as of June 30, 1973, of $481.6 million, representing 6.7 percent of the total deposits of commercial banks in the State. It ranks as the sixth largest banking organization in Maryland and controls, in addition to its eight banks, two nonbanking subsidiaries. One of such subsidiaries is engaged in mortgage financing and servicing and the other in commercial, specialized consumer and second mortgage lending, factoring, lease financing and loan servicing.

Bank is an organizing State bank to be located in Bethesda, Maryland, immediately north of Washington, D.C. Its approximate service area would include Bethesda and the southern half of the surrounding Montgomery County. In this area 15 commercial banks, including the State's five largest, operated 88 offices as of June 30, 1972. Applicant's closest office to that of Bank is in the northern extreme of this market, approximately 12 miles away. It appears, however, that no significant competition would develop between these offices because of the distance and inconvenience of travel between the two. The Board therefore finds that approval of the application would not eliminate any significant existing or future competition.

The financial and managerial resources and future prospects of Applicant, its banks and its bank-related subsidiaries are regarded as generally satisfactory. As an alternative source of banking service, prospects for Bank appear favorable. Considerations relating to convenience and needs of the area to be served are consistent with approval of the application. Accordingly, 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 made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after that date, and The Commerce Bank and Trust Company of Maryland, Bethesda, Maryland, shall be opened for business not later than six months after the effective date of this Order. Each of the latter two periods may be extended for good cause by the Board, or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Board of Governors,[1] effective November 6, 1973.

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

[FR Doc.73-24229 Filed 11-13-73;8:45 am]

MID AMERICA BANCORPORATION, INC.

Acquisition of Bank

Mid America Bancorporation, Inc., Mendota Heights, Minnesota, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of The First National Bank of Lakeville, Lakeville, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 3, 1973.

Board of Governors of the Federal Reserve System, November 6, 1973.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.73-24232 Filed 11-13-73;8:45 am]

UNITED FIRST FLORIDA BANKS, INC.

Order Approving Acquisition of Bank

United First Florida Banks, Inc., Tampa, Florida, 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 at least 90 percent of the outstanding voting shares of Boynton Beach First National Bank and Trust, Boynton Beach, Florida (Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none have been received. The application has been considered in light of the factors set out in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant has thirty-two subsidiary banks with aggregate deposits of $1,182.7 million.[1] Acquisition of Bank which has deposits of $28.1 million, will increase Applicant's share of state-wide deposits (6.17 percent) by only .14 percent, and would increase Applicant's share of market deposits (4.4 percent) to 7.0 percent.

Bank is the fourteenth largest of 31 banks in West Palm Beach County, Florida, the relevant banking market.[2] Applicant is presently represented by one banking subsidiary in the market which is the tenth largest bank therein, located eleven miles north of Bank. From the

[1] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Brimmer, Bucher, and Holland. Absent and not voting: Governor Sheehan.

[1] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Brimmer, Bucher, and Holland. Absent and not voting: Governor Sheehan.

[1] Banking data are as of December 31, 1972, unless otherwise indicated, adjusted to reflect holding company formations and acquisitions approved by the Board through October 1, 1973.

[2] The West Palm Beach County banking market is approximated by the upper two-thirds of Palm Beach County.

facts of record, it appears that the proposed acquisition would not eliminate significant existing competition, nor is it likely that substantial competition would develop in the future. Furthermore, in view of Bank's relative size and market share, it does not appear that consummation herein would enable Applicant to acquire a dominant position in the market.

The banking needs of the community are being met by organizations in the market. Applicant will provide to Bank its expertise in the fields of investments and lending, and will also be a source of trained personnel. Convenience and needs factors lend weight to approval.

Considerations relating to the financial and managerial resources and future prospects of Applicant, its subsidiaries, and Bank, in view of Applicant's commitments to furnish additional equity capital to other subsidiary banks and an expected commitment to supplement Bank's capital, are regarded as satisfactory and consistent with approval. It is the Board's judgment that the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record in this case, the application is approved for the reasons summarized above. However, the transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[2] effective November 6, 1973.

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

[FR Doc.73-24231 Filed 11-13-73;8:45 am]

CHEMICAL NEW YORK CORP.

Order Approving Acquisition of Bank

Chemical New York Corporation, New York, New York, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the approval of the Board of Governors of the Federal Reserve System, under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)), to acquire 100 percent of the voting shares of First National Bank of Greenwich, Greenwich, New York (Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been received. The application has been considered in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls four banks with aggregate domestic deposits of $9.8 billion,[1] representing 9.2 percent of total commercial bank deposits in New York, and is the fourth largest banking organization in the State.[2]

Bank is a unit bank located in the Glens Falls market, which consists of Washington and Warren Counties and the northern half of Saratoga County, in the Fourth Banking District in New York. Bank is the sixth largest of nine banks operating in the Glens Falls market, with 2.5 percent of the market's deposits. Applicant is not presently represented in the Fourth Banking District, and, under the State's banking laws, its existing subsidiaries are not permitted to branch into the district until 1976. At the present time, the market's four laregst banks control 84.5 percent of the market's desposits; the proposed acquisition would not immediately change the structure of the market. Upon consummation of the proposal the Town of Greenwich would lose home office protection; however, because of its small population and slow growth rate, it is doubtful that the town would attract other banks. Accordingly, it is concluded that consummation of the proposed acquisition would not have an adverse effect on existing or potential competition in any relevant area.

The financial and managerial resources of Applicant and its subsidiary banks are satisfactory. Affiliation with Applicant would eliminate Bank's management succession problem. Accordingly banking factors are consistent with approval. Bank does not pay the maximum rate of interest on savings accounts, but does offer low-cost loan and deposit services. Applicant has stated that Bank's loan and deposit policies will be revised upon its affiliation with Applicant. Customers will thus lose a local bank offering a variety of low-cost services. Offsetting this loss is the likelihood that a wider range of services would be offered by Bank, the passbook savings rate raised to permissible ceilings, and less conservative lending policies instituted. Furthermore, given Bank's management succession problem, Bank probably would not remain independent, and, even in the absence of Applicant's proposal, changes would eventually be made in its policies. Therefore, considerations relating to the convenience and needs of the area to be served are considered consistent with approval.

It is the judgment of the Federal Reserve Bank of New York 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 thirtieth calendar day following the effective date of this Order, or (b) later than three months after that date, 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 Federal Reserve Bank of New York, acting for the Board pursuant to delegated authority, effective October 30, 1973.

FRED W. PIDERIT, Jr.,
Vice President, Federal Reserve Bank of New York.

[FR Doc.73-24226 Filed 11-13-73;8:45 am]

[2] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Brimmer, Bucher, and Holland. Absent and not voting: Governor Sheehan.

[1] Deposit data are as of December 31, 1972.

[2] Applicant also controls two nonbanking subsidiaries. Chemical Realty Corporation, New York, New York, is engaged in making real estate loans, an activity for which Applicant received approval under section 4(c)(8) of the Act on September 18, 1972. Chemical Realty derives no significant business from the Glens Falls market, and, therefore, consummation of the proposal would not have an adverse effect on competition in the relevant market. The other nonbanking subsidiary, ChemLease, Inc., New York, New York, which was formed on March 14, 1969, previously engaged in equipment leasing and is presently inactive. Applicant must divest itself of ChemLease by December 31, 1980, unless it applies to and receives the approval of the Board for the retention of those shares beyond such date.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 73-84]

NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL

Meeting and Agenda

The NASA Research and Technology Advisory Council will meet on November 15 and 16, 1973, at Headquarters, National Aeronautics and Space Administration. The meeting will be held in Room 625, Federal Office Building 10B. The meeting is open to the public with the exception of the closed sessions: (1) November 15, 9 a.m.–10 a.m., and (2) November 16, 11:30 a.m.–3 p.m. The seating capacity of the room is about 40 persons, including Council members and other participants.

The NASA Research and Technology Advisory Council was established to advise NASA's senior management in the area of aeronautics and space research and technology. The Council studies issues, pinpoints critical problems, determines gaps in needed technology, points out desirable goals and objectives, summarizes the state of the art, assesses ongoing work, and makes recommendations to help NASA plan and carry out a program of greatest benefit to the nation. The current Chairman is Mr. Richard E. Horner. There are 17 members on the Council itself and additional members on 8 Committees which report to the Council.

The following list sets forth the approved agenda and schedule for the meeting. For further information, please contact the Executive Secretary, Mr. Fred W. Bowen, Jr., Area Code 202, 755-2494.

November 15, 1973—Room 625, Federal Office Building 10B, 600 Independence Avenue SW., Washington, D.C.

Time	Topic
9 a.m.	Personnel Changes and OAST Funding Status (Closed Session)—The Council will be briefed on recent personnel changes and resulting implications; new Council members will be introduced; and the status and details of the Fiscal Year 1974 Office of Aeronautics and Space Technology (OAST) budget and the outlook for the Fiscal Year 1975 budget will be reviewed.
10 a.m.	OAST Program Status—To brief the Council on the status of major OAST programs. The Council will use this information to guide its assessment of Committee activities as presented in Committee reports later in the day.
11 a.m.	Quiet Propulsive-Lift Technology and Highly Maneuverable Aircraft Technology—Current activities concerned with such technology will be presented for Council comments.
1 p.m.	Research and Technology Advisory Council (RTAC) Restructuring—To inform the Council of actions taken by NASA toward implementing the concept of Committees and Panels, or the single disciplinary and focused needs approaches to reviewing OAST programs.
2 p.m.	NASA Energy Activities—To apprise the Council of the various planning efforts and ongoing activities related to providing technology in support of solutions to energy problems.
3 p.m.	Skylab Status Report and Space Shuttle Status Review—To inform the Council of the latest accomplishments, plans and activities with regard to these programs.
4 p.m.	Status Report of Aeronautics and Space Engineering Board Committees on Alternate Aircraft Fuels and Advanced Supersonic Technology—The Council will be updated on the progress and status of studies on the above subjects being conducted by the Aeronautics and Space Engineering Board.
4:30 p.m.	Committee Reports—Committee Chairman will present reports covering their activities since the last Council meeting.

November 16, 1973—Room 625, Federal Office Building 10B, 600 Independence Avenue SW., Washington, D.C.

Time	Topic
8:30 a.m.	Committee Reports (Continued)—Committee Chairmen will present reports covering their activities since the last Council meeting.
11:30 a.m.	Preparation of Council Comments and Executive Session with NASA Administrator (Closed Session)—The Council will prepare its report and identify recommendations to be made to the NASA Administrator. The recommendations will be made considering NASA and Committee reports and will be related to future funding levels and preliminary agency planning, industry proprietary information, and personnel qualifications. NASA will respond in light of ongoing and planned programs including, in many instances, funding and program plans beyond Fiscal Year 1974 and information on preliminary planning for the Fiscal Year 1975 budget.
3 p.m.	Adjourn.

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

NOVEMBER 8, 1973.

[FR Doc.73-24199 Filed 11-13-73;8:45 am]

NATIONAL ENDOWMENT FOR THE ARTS

CRAFTS PROGRAM

Application Procedures

Following is a description of application procedures for projects having to do with crafts under various programs of the National Endowment for the Arts, an independent agency of the Federal government which makes grants to organizations and individuals concerned with the arts throughout the United States.

Interested persons should contact the specific program offices mentioned in conjunction with projects described herein.

Signed at Washington, D.C. on November 6, 1973.

FANNIE TAYLOR,
Director, Program Information.

FOREWORD

The current revival of interest in American design and craftsmanship is rising steadily and strongly across the country, a ground swell testifying to the vitality of the tradition of fine crafts in the country and the validity of a common regard for color, texture, design, and shape in the quality of the everyday environment of our lives.

Museums everywhere are increasingly giving space to craft exhibitions and the high volume of attendance is evidence of widespread interest. Craft fairs are enlivening the landscape of the country—a celebration of the liveliness of the craftsmen of our times.

The National Endowment for the Arts considers the encouragement of the craftsman who is keeping alive and advancing a basic tradition of quality, durability, and beauty in American life, to be part of its mandate to support the development and growth of the arts throughout the United States, particularly that section of it which speaks of giving emphasis to American creativity and the maintenance and encouragement of professional excellence. * * *
(Nancy Hanks, Chairman, National Endowment for the Arts, from "Encouraging American Craftsmen".)

HOW THE PROGRAM DEVELOPED

Included in the definition of those arts for which the National Endowment for the Arts is responsible is the broad area known as crafts. Until 1972, there had been no particular emphasis on crafts and no single Endowment program through which assistance might be given for the promotion and development of crafts projects.

In that year, the Endowment assessed the needs of crafts and craftsmen and took note of what could be done through its existing programs. It was recognized that grants in support of crafts projects had already been made by certain Endowment programs: Museums, Visual Arts, Expansion Arts, Education, and Special Projects. Also many state arts agencies had been quite active in support of crafts projects with funds received from the Endowment's Federal-State Partnership program.

Nancy Hanks, Chairman of the Endowment, sought the advice of many of the country's leaders in the crafts movement. Using their responses as a basis for a working paper, a meeting was called by the Endowment and hosted by the American Crafts Council to discuss the needs of the crafts field and develop program objectives aimed at meeting them.

These crafts leaders recommended strongly that the Endowment not establish a separate crafts program, but that support for crafts be made available through existing programs. They agreed that orderly procedures called for coordination in one office and suggested that this leadership be assumed in the Visual Arts program. These recommendations are now being implemented.

HOW TO LOOK FOR SUPPORT IN THE CRAFTS PROGRAM

If you are interested in support for a crafts project, you should read the material in this booklet. You will find excerpted guidelines from program areas concerned with the crafts. If you find an applicable area, you should send a letter to the appropriate program office (for example, Museums or Expansion Arts) with a copy to the Crafts Coordinator, describing what you have in mind.

Letters of general inquiry concerning crafts should be addressed to the Crafts Coordinator, National Endowment for the Arts, Washington, D.C. 20506.

GENERAL INFORMATION ON THE CRAFTS PROGRAM

The National Endowment for the Arts seeks to:

Bring craftsmen into elementary and secondary school classrooms through the Artists-in-Schools program (Education Program).

Assist professionally directed community-based arts organizations which provide instruction and training in crafts (Expansion Arts Program).

Bring craftsmen for short-term residencies into art schools, university art departments, and other organizations such as museums and community centers (Visual Arts Program).

Assist in the placement of quality crafts in public places (Visual Arts Program).

Assist in the production of quality crafts through workshop programs (Visual Arts Program).

Enable craftsmen to set aside time, to aid in purchasing materials, and for other purposes that would enable them to advance their careers through the Craftsmen's Fellowship Program (Visual Arts Program).

Assist museums in the purchase, exhibition, cataloguing, and preservation of craft collections (Museum Program).

EXCERPTS FROM EDUCATION PROGRAM

Artists-in-Schools. Artists and educators are increasingly recognizing the long-range value in making the arts a central part of a child's school experience. This program places professional creative artists (sculptors, painters, graphic artists, craftsmen, musicians, actors, dancers, poets, filmmakers, etc.) in informal teaching and learning situations as a humanizing force in elementary and secondary schools across the United States.

The purpose of the program is to bring new vitality into the schools and to involve students with a practicing artist. Schools participating in the program are asked to provide studio and working space for the artists, where they may work with students. Artists in the program are to be considered as artistic resources for the school and not as formal teachers. It is expected that the artists will work with teachers as well as students.

Eligibility. Professional artists and school districts interested in participating in the program should contact their state arts agency.

Grant Amounts. The program is funded primarily through grants to state arts agencies which work closely with state and local education departments.

For more information please contact:
Director of Education Program, National Endowment for the Arts, Washington, D.C. 20506.

EXCERPTS FROM EXPANSION ARTS PROGRAM GUIDELINES

Expansion Arts program provides matching grants to professionally directed, community-based arts organizations, often involved with urban, suburban, and rural communities, which provide: Production of original works of art; the promotion of cross-cultural exchange; creation of new, innovative art forms and arts-related activities; creation of new ways to assimilate new forms with established forms; neighborhood arts services; and the involvement of the arts to help achieve educational and social goals.

Eligibility. In general, grants are restricted to nonprofit tax-exempt arts organizations which meet the first three requirements listed below and some or all of the remaining:

1. Are professionally directed and community-based.
2. Have demonstrated high standards of performance and administration.
3. Have been in operation for one year or more.
4. Promote cross-cultural exchange.
5. Encourage the development and assimilation of new art forms.
6. Serve unique needs, created by geography or other special factors.

Project applications which involve crafts in the above activities are welcome.

For more information please contact:
Director of Expansion Arts Program, National Endowment for the Arts, Washington, D.C. 20506.

EXCERPTS FROM MUSEUM PROGRAM GUIDELINES

The Museum program offers matching grants in support of a museum's essential activities, including mounting of special exhibitions, utilization of collections (innovative installation of permanent collections and establishment of study-storage centers), visiting specialists, conservation, training programs, fellowships for museum professionals, cataloguing and publications of catalogues, and renovation (climate control, security, storage). Funds are also available for acquisition of works by living American artists (including craftsmen) and for educational and community service programs which make the museum's resources widely available to the public.

Eligibility. Museums which meet the definition developed by the American Association of Museums:

* * * a non-profit institution essentially educational or aesthetic in purpose with professional staff, which owns and utilizes tangible objects, cares for them, and exhibits them to the public on some regular schedule.

In general, to be eligible for consideration, programs should be of national or regional impact and of aesthetic or cultural significance.

Project applications which involve crafts in the above activities are welcome.

For more information please contact:
Director of Museum Program, National Endowment for the Arts, Washington, D.C. 20506.

EXCERPTS FROM VISUAL ARTS PROGRAM GUIDELINES

The Visual Arts program provides assistance for individual artists of exceptional talent, such as painters, sculptors, printmakers, craftsmen, photographers; for the commissioning and placement of art works in public places; for short-term residencies of artists, critics, craftsmen, photographers in educational and cultural institutions, and for a variety of flexible programs, including workshops, short-term activities, and artists' services. Basically grants are of two kinds: non-matching fellowships are available to individuals; and matching projects grants are made to organizations.

CRAFTSMEN'S FELLOWSHIP PROGRAM

The aim of this program is to enable craftsmen to set aside time, to aid in purchasing materials, and for other purposes that would enable them to advance their careers.

Eligibility. Professional craftsmen of exceptional talent—glass workers, metal workers, weavers, potters, etc.—of any age, medium, or aesthetic persuasion. Students are not eligible. Fellowships are generally made only to citizens of the United States.

Fellowship Amount. $3,000.

ARTISTS, CRITICS, PHOTOGRAPHERS, AND CRAFTSMEN IN RESIDENCE

To make it possible for art schools, university art departments, and other institutions to invite craftsmen and other artists of national reputation for short-term stays to instruct, influence, and stimulate students and faculty while practicing their professions. Institutions select the craftsmen of their choosing and work out a mutually acceptable schedule of activities with emphasis on student contact.

Eligibility. While aimed primarily at art schools and university art departments, other organizations such as museums and community centers may qualify.

Grant Amounts. Grants will usually not exceed $1,500 and will be made on a matching basis.

WORKSHOP PROGRAM

The aim of the Workship Program is the production of new work by artists (including craftsmen) of exceptional talent, thus adding to our cultural resources. The program also encourages artists to test ideas and media, and to devise modes of working together, and, of course, to give them a place to work.

Eligibility. For the purposes of this program, a "workshop" is defined as a place with facilities where a group of artists who share common aesthetic and technical interests come together for the purpose of making art in a situation in which they derive stimulation from each other's presence and ideas. The workshop or organization holding the workshop must be tax-exempt, have been in existence for at least one year, and be for the benefit of groups of practicing professional artists. Amateur or adult education groups are not eligible. Workshops may be independent or attached to museums, universities, art schools, etc. In the latter case, while students may benefit, the emphasis must be on work by practicing professional artists.

Grant Amounts. Matching grants will usually not exceed $10,000.

WORKS OF ART IN PUBLIC PLACES

The aim of this program is to give the public access to the best art of our time outside museum walls. The presence of art contributes to the public's enjoyment and education creates a favorable climate for the reception of all the arts, and assists in passing the best art of our day on to future generations. This program also provides opportunities and challenges for the country's most important artists (including craftsmen) and encourages them to exercise their talents to the fullest.

Eligibility. A significant part of this program is the stimulation of an effective partnership between a city, the private sector, and the federal government. All cities and towns in the United States are eligible. For the program to be successful, it is essential that there be strong local support by an aesthetically sophisticated group which can summon financial resources for the project.

For more information please contact:
Director of Visual Arts Program, National Endowment for the Arts, Washington, D.C. 20506.

EXCERPTS FROM SPECIAL PROJECTS PROGRAM GUIDELINES

The Special Projects Program is designed to accommodate a limited number of activities which do not fit other Endowment program guidelines, and to provide a means of reviewing projects which involve two or more art forms or program areas.

Regional developments. A limited number of matching grants are available for arts projects which foster increased regional development and increased cooperation among States. The purpose of this program is to demonstrate that worthwhile programming which cannot be accomplished by States individually can be undertaken by states working together.

General programs. Matching grants to professional arts organizations for projects which fall outside of other Endowment program guidelines and for projects involving two or more art forms.

Project applications which involve crafts and do not fit into other Endowment programs will be channeled to Special Projects if they have unusual merit.

For more information please contact:
Director of Special Projects Program, National Endowment for the Arts, Washington, D.C. 20506.

A WORD ON THE BICENTENNIAL

The Endowment recognizes that the arts will play an important role in the next few years in the celebration of our country's Bicentennial. The Endowment welcomes this

involvement on the part of artists and cultural organizations. The Endowment has an active interest in participating in these efforts, within funds available to it, and insofar as they are directed to professional creation and presentation of new works, improvement of artistic standards, preservation of our cultural heritage, and increasing the availability of the arts for all Americans. If funds under these guidelines are sought for projects deemed by the applicant to be related to the Bicentennial, a brief description of this relationship should be made in the application.

[FR Doc.73-24209 Filed 11-13-73;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

AUTOBALE AMERICA CORP.

Notice of Suspension of Trading

NOVEMBER 2, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Autobale America Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from November 3, 1973, through November 12, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-24240 Filed 11-13-73;8:45 am]

[812-2736]

CAL-WESTERN SEPARATE ACCOUNT A AND CALIFORNIA-WESTERN STATES LIFE INSURANCE CO.

Notice of Amended Application

NOVEMBER 5, 1973.

Notice is hereby given that California-Western States Life Insurance Company (Cal-Western), 2020 L Street, Sacramento, California 95814, a stock life insurance company organized under California law, and Cal-Western Separate Account A (Separate Account A), (herein collectively referred to as "Applicants"), have filed an application pursuant to section 6(c) of the Investment Company Act of 1940 (Act) for an order of exemption from the provisions of section 22(d) of the Act to the extent noted below. All interested persons are referred to the application, as amended, on file with the Commission for a statement of the representations contained therein, which are summarized below.

Cal-Western established Separate Account A, registered as a diversified, open-end management investment company under the Act, as the facility through which it sets aside and invests assets attributable to variable annuity contracts issued to persons who qualify for favorable tax treatment in accordance with sections 401, 403(a), and 403(b) of the Internal Revenue Code of 1954, as amended (the "Code").

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter for such company shall sell any redeemable security to the public except at a current public offering price described in the prospectus. The current public offering price of the variable annuity contracts described in the prospectus of Seperate Account A include sales and administrative charges.

Under a prior order of exemption from section 22(d) of the Act issued by the Commission on July 31, 1970 (Investment Company Act Release No. 6147), Applicants are permitted to eliminate all sales and administrative expense charges in cases where either group or individual annuity contracts are purchased by the application of proceeds payable by Cal-Western under insurance policies or fixed dollar annuity contracts which were issued to fund retirement plans under sections 401 and 403(b) of the Code.

On June 22, 1973, Separate Account A filed a new individual contract for registration under the Securities Act of 1933 (Securities Act) which contract is called an Individual Variable and Fixed Retirement Contract (Combined Contract). The Combined Contract contains provisions not included in any of the contracts previously registered under the Securities Act and, therefore, Applicants seek exemption from section 22(d) of the Act in connection with such provisions with respect to which the prior order of exemption is not applicable. Pursuant to these provisions, deductions for sales and administrative expenses will be based upon the aggregate amount of payments made for either the fixed or variable annuity or a combination of both, and amounts accumulated under the fixed annuity provisions of a Combined Contract may be transferred, not more than once each year, to the Separate Account A, or vice versa, without payment of charges for sales and administrative expenses. In addition, Applicants seek an exemption from section 22(d) of the Act to permit the proceeds payable under insurance policies and annuity contracts issued by the Applicants to fund retirement plans under sections 401, 403(a), and 403(b) of the Code, including variable annuity contracts previously registered whose reserves are maintained in Separate Account A, to be used, not more than once each year, to purchase a Combined Contract without charges for sales and administrative expenses.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally exempt any persons or transactions from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants assert that the practices sought to be exempted are not in conflict with the purposes of section 22(d) of the Act since they will neither result in disruptive distribution patterns for variable annuity contracts nor create unfair discrimination among purchasers of such contracts. Applicants state that: (1) A secondary market in the Combined Contracts, which are nonfungible and nontransferable (except to Cal-Western), is an impossibility, (2) rights to transfer amounts accumulated under the fixed provisions of the Combined Contract to Separate Account A without charges for sales or administrative expenses will be available to all purchasers, and (3) sales and administrative charges will have been included in the premiums paid upon the purchase of policies or annuity contracts whose proceeds may be used to purchase Combined Contracts without sales and administrative charges. Applicants further state that the elimination of such charges in the manner proposed will avoid accumulating these charges and will thus be to the advantage of investors.

Notice is further given that any interested person may not later than November 26, 1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date, unless the Commission thereafter orders a hearing upon request or upon the Commisson's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-24216 Filed 11-13-73;8:45 am]

[70-5419]

COLUMBIA GAS SYSTEM, INC. AND COLUMBIA GAS DEVELOPMENT CORP.

Proposed Acquisition of Common Stock

NOVEMBER 5, 1973.

Notice is hereby given that the Columbia Gas System, Inc. ("Columbia"), a

registered holding company, and its nonutility subsidiary company, Columbia Gas Development Corporation (Development-U.S.), 20 Montchanin Road, Wilmington, Delaware 19807, have filed an application-declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(b), 7, 9, 10, 12 of the Act and Rules 43, 45, and 50(a)(3) promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the application-declaration, as amended, which is summarized below, for a complete statement of the proposed transactions.

To meet increasing demands of its retail and wholesale gas customers, Columbia, through its subsidiaries, has embarked on a diverse long-range gas supply procurement program, including procurement of gas from sources outside the United States.

Columbia anticipates a major new source of gas to be liquefied natural gas (LNG) from foreign countries and, in particular, the Norwegian sector of the North Sea. Columbia states there is significant competition for the gas, which will, in the first instance, be sold to the European market. However, Columbia anticipates that, with future additional major finds of gas, Norway will have large volumes of gas available for liquefaction and export as LNG, provided that such gas can be transported from the production site in the North Sea to Norway. For competitive reasons, Columbia considers it advisable to become a direct participant in the exploration and production of such gas, and also to provide engineering expertise to the effort being made to solve technical problems, including transportation. To the extent that Columbia becomes a participant in a successful production activity, Columbia believes it could acquire part of the LNG thus made available.

It is stated that, to comply with Norwegian Law, Columbia's participation in the exploration for and development of gas reserves in Norwegian waters requires a Norwegian subsidiary to apply for and obtain production licenses covering such reserves. To that end, Columbia has caused Norwegian Gas Development A/S (Development-Norway) to be organized under the laws of Norway, its initial capital subscription being made in the name of three officers of Columbia. Upon consummation of the proposed transactions, Development-Norway will be a wholly-owned subsidiary of Columbia.

Accordingly, Columbia proposes during 1973 and 1974 to acquire for cash an aggregate of up to 1,000 shares of common stock of Development-Norway at the par value thereof, 1,000 Norwegian Kroner (N. Kr.) per share; or a total capital of 1,000,000 N. Kr. Based on the exchange rate as of July 31, 1973, the United States dollar equivalent of 1,000,000 N. Kr. would be approximately $186,000, or $186 per share. Columbia will purchase and pay for the securities issued by Development-Norway from its general funds.

Pursuant to an agreement entered into on February 20, 1973, Development-Norway proposes to join with two non-affiliated companies, the Norwegian subsidiary of Forest Oil Corporation (Forest) and Saga Petroleum A/S and Co. (Saga), for the purpose of applying for the joint acquisition of production licenses covering tracts on the Norwegian Continental Shelf. Such application will be submitted to the Norwegian Government for licensee permitting exploration for and exploitation of petroleum underlying certain blocks located in Norwegian waters that the Norwegian Ministry of Industry and Handicrafts posted for international bidding on July 13, 1973. Ownership in any licenses that may be issued pursuant to said application shall be jointly apportioned (at percentages to be determined) among Development-Norway, Saga, Forest, and a Norwegian state-owned entity named Statoil. Development-Norway also plans to participate in efforts to acquire leases in any future offerings by the Norwegian Government.

For the purpose of being able to include costs incurred in the development of gas from the Norwegian Continental Shelf in Columbia's United States consolidated Federal income tax return, it is proposed that, after such licenses are obtained, Development-Norway will enter into a "pass-through" agreement with Development U.S., which is a member of Columbia's consolidated tax return group. Pursuant to such agreement, Development-U.S. will finance and operate the development of the North Sea blocks granted to Development-Norway under the production licenses, in exchange for all of the oil and gas thus produced. It is stated that this agreement would permit the exploration and development costs thus incurred by Development-U.S. to be included in Columbia's consolidated Federal income tax returns. In the event that licenses are obtained, it is presently estimated that the related expenditures by Development-U.S., for the period 1974–1975, may aggregate $5 million.

Columbia states that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. A statement of the fees and expenses incident to the proposed transactions will be filed by amendment.

Notice is further given that any interested person may, not later than November 29, 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, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request shoud be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request 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] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-24215 Filed 11-13-73;8:45 am]

[File No. 500-1]

CONTINENTAL VENDING MACHINE CORP.

Notice of Suspension of Trading

NOVEMBER 5, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Continental Vending Machine Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from November 6, 1973 through November 15, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-24238 Filed 11-13-73;8:45 am]

[File No. 500-1]

EQUITY FUNDING CORPORATION OF AMERICA

Notice of Suspension of Trading

NOVEMBER 2, 1973.

The common stock of Equity Funding Corporation of America being traded on the New York Stock Exchange, the Midwest Stock Exchange, the Pacific-Coast Stock Exchange, the Philadelphia-Baltimore-Washington Stock Exchange, the Boston Stock Exchange; warrants to purchase the common stock being traded on the American Stock Exchange and the Philadelphia-Baltimore-Washington Stock Exchange; 9½ percent debentures due 1990 being traded on the New York Stock Exchange; and 5½ percent convertible subordinated debentures due 1991 being traded on the New York Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all

other securities of Equity Funding Corporation of America being traded otherwise than on a national securities exchange; and

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

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange is suspended, for the period from November 3, 1973 through November 12, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-24242 Filed 11-13-73;8:45 am]

[File No. 500-1]

GIANT STORES CORP.

Notice of Suspension of Trading

OCTOBER 23, 1973.

The common stock of Giant Stores Corp. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Giant Stores Corp. being traded otherwise than on a national securities exchange; and

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

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from October 24, 1973, through November 2, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-24245 Filed 11-13-73;8:45 am]

[File No. 500-1]

GIANT STORES CORP.

Notice of Suspension of Trading

NOVEMBER 2, 1973.

The common stock of Giant Stores Corp. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Giant Stores Corp. being traded otherwise than on a national securities exchange; and

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

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from November 3, 1973, through November 12, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-24243 Filed 11-13-73;8:45 am]

[File No. 2-47141; Release No. 10473]

GOVERNMENT GUARANTEED SECURITIES CORP.

Application and Opportunity for Hearing

NOVEMBER 2, 1973.

Notice is hereby given That Government Guaranteed Securities Corporation, 427 West Fifth Street, Los Angeles, California 90013 (Applicant), has filed an application pursuant to section 15(a)(2) of the Securities Exchange Act of 1934, as amended, (the "Act"), for an order exempting it from the registration requirements of section 15(a)(1) of the Act.

Section 15(a)(2) empowers the Commission to exempt any broker or dealer or class of brokers or dealers, either unconditionally or upon specified terms and conditions or for specific periods, from the registration requirement of section 15(a)(1) of the Act, if the Commission deems it necessary or appropriate in the public interest or for the protection of investors.

Government Guaranteed Securities Corporation (GGSC) is a California Corporation which assists business entities in obtaining business loans under the United States Small Business Administration's (SBA) loan guarantee program. A loan made to an eligible small business with SBA approval qualifies for an SBA loan guarantee as to principal and interest to the extent of 90 percent of the unpaid balance of the loan or $350,000,whichever is less. GGSC also has been authorized by the SBA to act as a direct lender under the loan guarantee program. In addition to these activities, GGSC acts as general agent for insurance companies in selling insurance on the lives of principals of such borrowers.

When GGSC assists small business concerns in applying to lending institutions for loans with respect to which up to 90 percent of the principal and interest may be guaranteed by the SBA, GGSC customarily agrees to purchase from each such lending institution, at the time a loan is consummated, the guaranteed portion of such loan. GGSC then offers these guaranteed portions of loans to various institutional investors. GGSC asserts that when it engages in this activity, it acts as a secondary trader only for the guaranteed portion of loans.

In addition to assisting small business concerns in acquiring loans from third parties, GGSC, in some instances, makes direct loans to such concerns. In these situations, since the SBA will guarantee only up to 90 percent of the principal and interest of a loan, GGSC must assume the risk as to the non-guaranteed portion of the loan—normally 10 percent of the loan. In return for the loan, the borrower issues a note to GGSC for the full amount. Moreover, the loan generally is collateralized by real estate trust deeds, security interests in personal property, personal guarantees and life insurance proceeds. As in the case of loans made by other lending institutions, GGSC sells the SBA guaranteed portions of the loans, although it retains the non-SBA guaranteed portions.

For a more detailed statement of the information, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than November 22, 1973, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the person's interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-24236 Filed 11-13-73;8:45 am]

[File No. 500-1]

HOME-STAKE PRODUCTION CO.

Notice of Suspension of Trading

NOVEMBER 5, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Home-Stake Production Company being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from November 6, 1973, through November 15, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-24244 Filed 11-13-73;8:45 am]

[70-5401]

INDIANA GAS CO., INC.

Proposed Purchase of Stock

NOVEMBER 6, 1973.

Notice is hereby given that Indiana Gas Company, Inc. (Indiana Gas), 1630 North Meridian Street, Indianapolis, Indiana 46202, an exempt holding company organized under the laws of Indiana, has filed an application and amendments thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating section 9(a)(2) of the Act and Rule 62 thereunder as applicable to the proposed transaction. All interested persons are referred to the application, as amended, which is summarized below, for a complete statement of the proposed transaction.

Indiana Gas is a gas utility operating company, and also a public utility holding company by virtue of its existing ownership of Ohio River Gas Company, Inc. (Ohio Gas), a gas utility company. Ohio Gas, an Indiana corporation, serves 130 customers in Kentucky; in the year ended July 31, 1973, its gross utility revenues amounted to $63,000, and its net utility plant on that date was $55,000. Pursuant to Rule 2 under the Act, Indiana Gas has heretofore filed a statement and subsequent annual statements with this Commission on the prescribed Form U-3A-2, exempting it from all the provisions of the Act except section 9(a)(2) thereof, which governs the acquisition of securities of any public utility company.

Indiana Gas now proposes to purchase, pursuant to the terms of a Stock Purchase Agreement (Agreement) executed on September 11, 1973, with American Natural Gas Company (American Natural), a registered holding company, all of the 63,219 outstanding shares of common stock, par value $100 per share, of Central Indiana Gas Company (Central Indiana), a gas utility subsidiary company of American Natural. The purchase price stated in the Agreement is $20.5 million. Concurrently with this application, American Natural filed a declaration with the Commission requesting authorization under the applicable provisions of the Act and the rules thereunder, for the sale of the Central Indiana common stock (File No. 70-5402).

Central Indiana, which was acquired by American Natural on January 1, 1967 (Holding Company Act Release No. 15620), supplies gas to approximately 100,000 retail customers in 62 communities and surrounding areas in east central Indiana. Indiana Gas serves approximately 180,000 customers in 126 communities and adjacent areas in north central, central and southern Indiana. The service areas of Indiana Gas and Central Indiana are contiguous, and the classes of customers and size of communities served are generally comparable. At July 31, 1973, Indiana Gas' net utility plant amounted to $102 million, and its gross revenues for the 12-month period ended on that date were approximately $67 million. The comparable figures for Central Indiana were approximately $47 million and $37 million, respectively. Both Central Indiana and Indiana Gas are supplied by Panhandle Eastern Pipeline Company. Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), a gas pipe line subsidiary of American Natural, supplies less than 1 percent of the gas requirements of Central Indiana. Michigan Wisconsin also provides gas storage service to Central Indiana under agreements approved by the Federal Power Commission.

By reason of these factors, the applicant believes that the distribution system and operations of Central Indiana can be integrated into those of Indiana Gas to permit realization of economies and efficiencies in the operations of the integrated companies, as well as to improve the ability of both to meet the gas needs of customers served by them. Further, the applicant believes that greater efficiency and lower costs will result from combining data processing and other expenses and from the elimination or reduction of other administrative expenses currently reflected as expenses of Central Indiana; that the addition of the system gas requirements of Central Indiana will assist in achieving efficient utilization of a Naptha-based substitute natural gas facility, the construction of which, at an estimated cost of $28 million, is currently being planned by Indiana Gas; and, finally, that an ultimate improvement to its earnings will occur as a result of acquiring the Central Indiana stock, based upon the assumption that operating results of Central Indiana continue at levels comparable to those presently anticipated.

It is stated that the Agreement resulted from arms' length negotiations between representatives of Indiana Gas and American Natural in the period from August 7 to August 30, 1973, conducted pursuant to an Order of the Commission dated July 2, 1973 granting American Natural an exception from the competitive bidding requirements of Rule 50 under the Act with respect to the proposed sale of its interest in Central Indiana (Holding Company Act Release No. 18019). The program undertaken by American Natural for its disposition of Central Indiana, culminating in the Agreement with Indiana Gas, is set forth in the declaration, and amendment thereto, filed with the Commission by American Natural concurrently herewith, and summarized in Holding Company Act Release No. 18134.

The agreed purchase price of $20.5 million is 10.54 times Central Indiana's net income for the twelve months ended July 31, 1973; 10.4 times net income for the calendar year 1972; 10.7 times average net income for the five year period 1968 through 1972; and 108.3 percent and 115.2 percent, respectively, of the book value of the Central Indiana common stock as of July 31, 1973, and December 31, 1972. In agreeing on the purchase price, Indiana Gas states that it took into consideration not only Central Indiana's historical earnings as well as its potential future earnings, but also the location of its property, the value of its underlying utility assets, and the value to Indiana Gas of adding this distribution system to its own system, including the additional financial strength as well as the potential economies and efficiencies in the operation of the combined system.

Indiana Gas will initially finance the purchase price through the short-term bank loan described below; and it presently contemplates repaying the loan by permanent financing through the sale of additional shares of its common and preferred stock in the ratio of one-third common and two-thirds preferred. On that basis, and assuming a dividend rate of 8 percent on such new preferred stock, Indiana Gas estimates that the addition to net income equal to Central Indiana's average net income of the past five calendar years would result in pro forma net income of $3.42 per share of Indiana Gas' common stock, as compared with its actual earnings of $3.50 per share in the 12-month period ended August 31, 1973. It is stated, however, that this pro forma estimate gives no effect to a general rate increase which Central Indiana was authorized to put into effect on September 1, 1973, which Indiana Gas believes could result in pro forma earnings of $3.61 per share of its common stock.

The short-term bank loan referred to above will be effected pursuant to a loan agreement, dated October 1, 1973, between Indiana Gas and Merchants National Bank & Trust Company of Indianapolis (Merchants National). The latter has arranged for other banks to participate in the loan. To evidence the loan, Indiana Gas will issue its promissory note (Note), dated as of the date of issuance, maturing not more than eleven months thereafter, and bearing interest at a rate equal to 117.5 percent of the prime commercial rate, as adjusted from time to time for any changes thereof, in effect at Merchants National. In the event the loan is not repaid on or before June 30, 1974, the interest rate after that date will be increased by ½ of 1 percent above the then existing rate, subject to upward or downward adjustment as heretofore noted, until the Note is paid in full. Indiana Gas will have the option at any time to prepay, without penalty, the principal amount of the Note.

The Agreement, which has been approved by Indiana Gas' Board of Directors, is conditioned upon approval thereof by a majority vote of the Indiana Gas common stockholders at a special meeting for that purpose to be held on December 14, 1973. Indiana Gas has filed the relevant proxy materials with the Commission and requests accelerated Commission action thereon pursuant to Rule 62. The closing date specified in the Agreement is December 31, 1973, but may be automatically extended to a date not later than June 30, 1974, and beyond that by the mutual consent of the parties.

The Agreement stipulates that Indiana Gas is purchasing the Central Indiana

common stock for investment and not with a view to the sale or distribution thereof. In that respect, Indiana Gas states that it expects for the present to continue Central Indiana as a separate corporate entity but may, at an indeterminate future time, effect a merger of the two companies.

Indiana Gas states that if the proposed acquisition of the common stock of Central Indiana is consummated, it expects to continue to be exempt from the Act and rules promulgated thereunder, except section 9(a)(2), pursuant to the provisions of section 3(a)(1) of the Act and Rule 2 thereunder. Consistent therewith, Indiana Gas will make appropriate filings on Form U-3A-2 to continue such exemption in effect.

The fees, commissions, and expenses incurred or to be incurred in connection with the proposed transaction are estimated at approximately $222,000, which includes fees of $150,000 to be paid to an investment banking firm in the event the purchase is consummated, and legal fees and expenses of approximately $45,000 to be incurred whether or not the transaction is consummated. It is represented that the Public Service Commission of Indiana has jurisdiction over the proposed purchase of the Central Indiana common stock and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 3, 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, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended or as it may be further amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing to the Commission that the application, as amended, insofar as it proposes the solicitation of the Indiana Gas common stockholders' consent should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered that the application, as amended regarding the proposed solicitation of the Indiana Gas common stockholders, consent be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-24243 Filed 11-13-73;8:45 am]

[File No. 500-1]

INDUSTRIES INTERNATIONAL, INC.

Notice of Suspension of Trading

NOVEMBER 2, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Industries International, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from November 3, 1973 through November 12, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-24246 Filed 11-13-73;8:45 am]

[File No. 500-1]

KORACORP INDUSTRIES, INC.

Notice of Suspension of Trading

NOVEMBER 5, 1973.

The common stock of Koracorp Industries, Incorporated, being traded on the New York Stock Exchange and the Pacific Coast Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Koracorp Industries, Incorporated 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;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange is suspended, for the period from November 6, 1973 through November 15, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-24237 Filed 11-13-73;8:45 am]

[812-3514]

NARRAGANSETT CAPITAL CORP.

Filing of Application

NOVEMBER 5, 1973.

Notice is hereby given that Narragansett Capital Corporation (Fund), 40 Westminster Street, Providence, Rhode Island 02903, a nondiversified, closed-end management investment company registered under the Investment Company Act of 1940 (Act), and a licensed small business investment company under the Small Business Investment Act of 1958, has filed an application pursuant to section 17(d) of the Act and Rule 17d-1 thereunder for an order of the Commission permitting the Fund, together with Main Line Fashions, Inc. (Main Line), an affiliate of the Fund, and William Margolis (Margolis), an affiliate of Main Line, to participate in a loan and stock redemption transaction described in the application. All interested persons are referred to the application, on file with the Commission, for a statement of the representations contained therein, which are summarized below.

Main Line, a Delaware corporation, is headquartered in New York and manufactures a classic line of women's coats which are sold nationally. Because of the basic design of the coats, sales are not particularly subject to the wide fluctuations in women's apparel styles. Margolis is the President and Chief Executive officer of Main Line.

When Main Line was formed in 1968, it was capitalized by the issuance and sale of a total of 2,500 shares of common stock for $100 per share. Present shareholders are as follows:

Name	Number of shares	Percent of ownership
Fund	1,125	45
Margolis	1,035	41.4
Leo Salon, Trustee f/b/o Simon Z. Lipskar	10	0.4
Leo Salon, Trustee f/b/o Carol B. Lipskar	40	1.6
Leo Salon, Trustee f/b/o Laurence B. Margolis	40	1.6
Industrial Capital Corporation ("ICC")	250	10
	2,500	100

The Board of Directors of Main Line has four members: Arthur D. Little, Vice President of the Fund, Harvey J. Sarles, President of the Fund, Margolis, and Leo Salon, counsel for and Secretary of Main Line. Subject to the granting of an order in connection with this application and the required approval by the Small Business Administration, the Board of Directors of Main Line has agreed to purchase from Margolis 410 of the 1,035 shares of Main Line common stock he holds and all 90 shares held by the aforementioned Trusts which were created by Margolis for his children and grandchild and to pay therefor $800 per share, or $400,000 in the aggregate. After such purchase and redemption, the common stock ownership of Main Line would be as follows:

Name	Shares	Percent of ownership
Narragansett	1,125	56.25
Margolis	625	31.25
ICC	250	12.50
	2,000	100.00

The Executive Committee of the Board of Directors of Fund has agreed to lend Main Line $400,000 to finance this purchase. Such loan would be evidenced by Main Line's $400,000 unsecured promissory note, payable in full five years after date and bearing interest, payable monthly in arrears, at the rate of 5 percent over the prevailing prime rate of Industrial National Bank of Rhode Island (with a minimum rate of 12 percent per annum and a maximum rate of 15 percent per annum). Payment of the note to Fund would be subordinate to the prior payment in full of all indebtedness to financial institutions lending to Main Line and general creditors. The terms of the loan are consistent with the loan terms offered by the Fund to other portfolio concerns.

Fund asserts that consummation of the transaction is important to satisfy the needs of Margolis for liquidity with respect to part of his investment. Prior attempts to have a public offering of Main Line stock, or to sell Main Line as a going concern, have failed. Margolis is considered key to the continued success of Main Line, and for this reason the Fund believes that he must be accommodated in a reasonable way with respect to his liquidity desires.

The proposed purchase price for the shares held by Margolis and the Trusts of $800 per share was based on (i) the price at which negotiations were conducted for the sale of the whole company to another concern; (ii) financial information contained in the application which includes a forecast for the current fiscal year of sales of approximately $14,000,000 and net income after taxes of approximately $600,000; and (iii) relative price/earnings ratios of publicly held stocks in comparable industries as shown in a letter of G. H. Walker & Co. Incorporated submitted as part of the application.

For the fiscal year ended March 31, 1973, Main Line's earnings per share were $136.55, and the $800 purchase price is 5.86 times these results. The proforma effect of the proposed transactions on per share book values of Main Line's stock at March 31, 1973 is as follows:

Actual per share book value—	
2,500 shares outstanding	$760.53
Pro forma per share value—	
2,000 shares outstanding	$750.67

Main Line is 45 percent owned by the Fund, therefore, it is an affiliated person of the Fund within the meaning of the Act. Margolis, as a 41.4 percent stockholder, director and officer of Main Line, is an affiliated person of Main Line.

Section 17(d) of the Act and Rule 17d–1 under the Act prohibit, in the absence of Commission approval, an affiliated person of a registered investment company, or an affiliated person of such persons, from participating in a transaction in connection with a joint enterprise or other joint arrangement in which such registered company is also a participant. The loan and redemption transactions, taken together, can be deemed to be a joint enterprise arrangement among the Fund, Main Line and Margolis.

Under section 17(d) and Rule 17d–1 the Commission considers, in passing upon an application to permit an affiliated person of a registered investment company to participate in a joint enterprise or other joint arrangement in which such registered company is a participant, whether the participation of such registered company in such arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which such participation is on a basis different from, or less advantageous than, that of other participants.

The Fund represents that the loan and redemption transactions were negotiated at arm's-length between Margolis and representatives of the Fund. The Fund further asserts that the terms of the transactions are reasonable and fair and that the Fund's participation is on a basis not less advantageous to it than is the bases of participation of the other participants to such other participants. The transaction is deemed necessary to protect and enhance the value of the Fund's investment in Main Line in the face of failures in previous attempts to satisfy a key management executive's personal financial situation (and thus his satisfaction with his position at Main Line) through other alternatives. The Fund also contends that the transaction is consistent with the provisions, policies and purposes of the Act.

Notice is further given, that any interested person may, not later than November 30, 1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-24214 Filed 11-13-73;8:45 am]

[File No. 500-1]

SANITAS SERVICE CORP.

Notice of Suspension of Trading

NOVEMBER 2, 1973.

The common stock of Sanitas Service Corporation being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Sanitas Service Corporation 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;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from November 3, 1973, through November 12, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-24241 Filed 11-13-73;8:45 am]

[File No. 500-1]

SEABOARD CORP.

Suspension of Trading

NOVEMBER 6, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, units and warrants of Seaboard Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from November 7, 1973, through November 16, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-24217 Filed 11-13-73;8:45 am]

[File No. 500-1]

STRATTON GROUP, LTD.

Notice of Suspension of Trading

NOVEMBER 5, 1973.

The common stock of Stratton Group, Ltd., being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Stratton Group, Ltd., 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;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from November 6, 1973 through November 15, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-24239 Filed 11-13-73;8:45 am]

[812-3521]

TECHNIVEST FUND, INC. AND IVEST FUND, INC.

Application for Order Exempting Proposed Transaction

NOVEMBER 5, 1973.

Notice is hereby given that Technivest Fund, Inc. (Technivest) and Ivest Fund, Inc. (Ivest) (hereinafter collectively referred to as "Applicants"), 1250 Drummers Lane, Valley Forge, Pennsylvania 19482, each of which is registered as a diversified, open-end management investment company under the Investment Company Act of 1940 (Act), have filed an application pursuant to section 17(b) of the Act for an order exempting from the provisions of section 17(a) of the Act to the extent necessary the proposed reorganization of Technivest. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

The Board of Directors and the officers of each Applicant are identical, as is the investment manager, Wellington Management Company. Accordingly, Applicants may be deemed to be under common control and are affiliated persons of each other within the meaning of section 2(a)(3) of the Act.

Section 17(a) of the Act, as here pertinent, provides that it is unlawful for any affiliated person of a registered investment company knowingly to sell to or purchase from such investment company any security or property unless the Commission, upon application pursuant to section 17(b), grants an exemption from the provisions of section 17(a) after finding that the terms of the proposed transaction are fair and reasonable and do not involve any overreaching on the part of any person concerned, that the proposed transaction is consistent with the policy of each registered investment company concerned, and that the proposed transaction is consistent with the general purposes of the Act.

Technivest and Ivest have entered into Articles of Transfer and an Agreement and Plan of Reorganization (Agreement) which has been approved by the Board of Directors of both Applicants. The Agreement provides that substantially all of the assets of Technivest will be transferred on the closing date to Ivest in exchange for shares of Ivest's capital stock. The shares of Ivest will be distributed pro rata to the stockholders of Technivest in liquidation of Technivest and Technivest will, thereafter, be dissolved pursuant to the laws of the State of Maryland. The closing date is expected to be November 30, 1973, although a later date may be mutually agreed upon by Applicants.

Pursuant to the Agreement, the number of Ivest's shares to be delivered to Technivest will be determined at the close of the New York Stock Exchange on the closing date by dividing the aggregate market value, subject to certain adjustments, of the assets of Technivest to be transferred to Ivest by the net asset value, subject to certain adjustments, of Ivest. The adjustment provided for in the Agreement requires that in determining the number of shares of Ivest to be delivered to Technivest, the aggregate market value of the assets of Technivest shall be increased to reflect tax benefits which will accrue to Ivest shareholders through utilization of Technivest's capital loss carry forward and the value of the assets of Ivest will be reduced by a corresponding amount. If the closing date had been June 29, 1973, after giving effect to the adjustment provided for in the Agreement, the net asset value per share of Technivest and Ivest would have been $7.04 and $8.97 respectively; and each share of Technivest stock would have been exchanged for .7847 shares of Ivest. On June 29, 1973, the net assets of Technivest were $30,919,970 and those of Ivest $255,087,993, or respectively, $6.94 and $8.98 per share.

Applicants represent that the reorganization is contingent upon receipt of either a ruling from the Internal Revenue Service or an opinion from counsel to the Applicants to the effect that consummation of the reorganization will not result in the recognition of gain or loss for federal income tax purposes for either of the Applicants or their shareholders.

Applicants further represent that the terms of the proposed transaction are reasonable and fair to all parties, do not involve any overreaching and are consistent with the investment objectives of each Applicant and with the policies of the Act.

Applicants allege that the consummation of the proposed transaction will eliminate the rising per share operating costs of Technivest and thereby will realize significant cost savings for Technivest's shareholders.

Applicants also state that, in the opinion of the management of the Applicants, no material amount of portfolio securities will be sold since the investment portfolio of Technivest is comparable to that of Ivest.

Notice is further given that any interested person may, not later than November 26, 1973 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-24213 Filed 11-13-73;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Notice of Disaster Loan Area 1015; Amdt. 2]

KANSAS

Amendment to Notice of Disaster Relief Loan Availability

As a result of the President's declaration of the State of Kansas as a major disaster area following severe storms, tornadoes, and flooding beginning on or about September 22, 1973, and extending through October 15, 1973, applications for disaster relief loans will be accepted by the Small Business Administration from storm and flood victims in the following counties: Atchison, Brown, Coffee, Cowley, Geary, Greenwood, Jackson, Jefferson, Lincoln, Linn, Lyon, Morris, Nemaha, Pottawatomie, Riley, Shawnee, Woodson, and Wyandotte, and adjacent affected areas. (See 38 FR 28333 and 38 FR 30042).

Applications may be filed at the:

Small Business Administration, District Office, 120 South Market Street, Wichita, Kansas 67202.

and at such temporary offices as are established. Such addresses will be announced locally. Applications will be processed under the provisions of Public Law 93-24.

Applications for disaster loans under this announcement and all prior announcements for the State of Kansas under Notice of Disaster Loan Area 1015 must be filed not later than December 24, 1973.

Dated: October 25, 1973.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.73-24259 Filed 11-13-73;8:45 am]

[Notice of Disaster Loan Area 1022]

MISSOURI

Notice of Disaster Relief Loan Availability

As a result of the President's declaration of the State of Missouri as a major disaster area following severe storms and flooding, beginning about September 21, 1973, applications for disaster relief loans will be accepted by the Small Business Administration from storm and flood victims in the following counties: Adair, Andrew, Atchison, Buchanan, Caldwell, Callaway, Carroll, Chariton, Clay, Clinton, Cole, Cooper, Daviess, DeKalb, Franklin, Gentry, Harrison, Holt, Howard, Knox, Lafayette, Lewis, Livingston, Macon, Mercer, Moniteau, Montgomery, Nodaway, Platte, Putnam, Ray, Saline, Schuyler, Scotland, Shelby, Worth, and adjacent affected areas.

Applications may be filed at the:

Small Business Administration, 911 Walnut Street, Kansas City, Missouri 64106.

and at such temporary offices as are established. Such addresses will be announced locally. Applications will be processed under the provisions of Pub. L. 93-24.

Applications for disaster loans under this announcement must be filed not later than December 31, 1973.

Dated: November 6, 1973.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.73-24260 Filed 11-13-73;8:45 am]

[License No. 09/09-5165]

RISK CAPITAL FUNDING, INC.

Issuance of Licenses To Operate as a Small Business Investment Company

On September 5, 1973, a notice was published in the FEDERAL REGISTER (38 FR 23995), stating that Risk Capital Funding, Inc., located at 16055 Ventura Boulevard, Encino, California 91316, had filed an application with the Small Business Administration, pursuant to 13 CFR 107.701 (1973) for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958 (the Act).

The period for comment ended September 20, 1973.

Notice is hereby given that, having considered the application and all other pertinent information, SBA has issued License No. 09/09-5165 to Risk Capital Funding, Inc., pursuant to said section 301(d) of the Act.

Dated: November 7, 1973.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.73-24261 Filed 11-13-73;8:45 am]

TARIFF COMMISSION

[22-37]

CERTAIN COTTON, COTTON WASTE, AND COTTON PRODUCTS

Notice of Hearing

Notice is hereby given that on January 21, 1974, the United States Tariff Commission will hold a public hearing in connection with Investigation No. 22-37 under subsection (d) of section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624), to review the quotas for certain cotton, cotton waste, and cotton products provided for in items 955.01 through 955.06 of Part 3 of the Appendix to the Tariff Schedules of the United States. The Commission on November 5, 1973, instituted the investigation under subsection (d) to determine whether the annual import quotas for the articles described in items 955.01 through 955.06 may be suspended without rendering or tending to render ineffective, or materially interferring with, the programs for cotton now conducted by the Department of Agriculture, or reducing substantially the amount of products processed in the United States from domestic cotton.

The hearing will be held in the Tariff Commission's Hearing Room, Tariff Commission Building, 8th and E Streets NW., Washington, D.C., beginning at 10 a.m., e.s.t., on January 21, 1974. All parties will be given opportunity to be present, to produce evidence, and to be heard at such hearing. Interested parties desiring to appear at the public hearing should notify the Secretary of the Tariff Commission, in writing, at its offices in Washington, D.C., not later than noon Wednesday, January 16, 1974. The notification should indicate the name, address, telephone number, and organization of the person filing the request, and the name and organization of the witnesses who will testify.

Because of the limited time available, the Commission reserves the right to limit the time assigned to witnesses. Questioning of witnesses will be limited to members of the Commission and officials of the Department of Agriculture.

Written submissions. Interested parties may submit written statements of information and views, in lieu of their appearance at the public hearings, or they may supplement their oral testimony by written statements of any desired length. In order to be assured of consideration, all written statements should be submitted at the earliest practicable date, but not later than ten days after the completion of the public hearing.

With respect to any of the aforementioned written submissions, interested parties should furnish a signed original and nineteen (19) true copies. Business data to be treated as business confidential shall be submitted on separate sheets, each clearly marked at the top "Business Confidential," as provided for in § 201.6 of the Commission's rules of practice and procedure.

By order of the Commission.

Issued: November 8, 1973.

KENNETH R. MASON,
Secretary.

[FR Doc.73-24249 Filed 11-13-73;8:45 am]

[22-38]

WHEAT AND MILLED WHEAT PRODUCTS

Notice of Hearing

Notice is hereby given that on January 7, 1974, the United States Tariff Commission will hold a public hearing in connection with Investigation No. 22-38 under subsection (d) of section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624), to review the quotas for wheat and milled wheat products provided for in item 950.60 of Part 3 of the Appendix to the Tariff Schedules of the United States. The Commission on November 5, 1973, instituted the investigation under subsection (d) to determine whether the annual import quotas on wheat and milled wheat products may be suspended without rendering or tending to render ineffective, or materially interfering with, the programs for wheat now conducted by the Department of Agriculture, or reducing substantially the amount of products processed in the United States from domestic wheat.

The public hearing will be held in the Tariff Commission's Hearing Room, Tariff Commission Building, 8th and E Streets NW., Washington, D.C., beginning at 10 a.m., e.s.t., on January 7, 1974. All parties will be given opportunity to be present, to produce evidence, and to be heard at such hearing. Interested parties desiring to appear at the public hearing should notify the Secretary of the Tariff Commission, in writing, at its offices in Washington, D.C., not later than noon Wednesday, January 2, 1974. The notification should indicate the name, address, telephone number, and organization of the person filing the request, and the name and organization of the witnesses who will testify.

Because of the limited time available, the Commission reserves the right to limit the time assigned to witnesses. Questioning of witnesses will be limited to members of the Commission and officials of the Department of Agriculture.

Written submissions. Interested parties may submit written statements of information and views, in lieu of their appearance at the public hearing, or they may supplement their oral testimony by written statements of any desired length. In order to be assured of consideration, all written statements should be submitted

at the earliest practicable date, but not later than ten days after the conclusion of the public hearing.

With respect to any of the aforementioned written submissions, interested parties should furnish a signed original and nineteen (19) true copies. Business data to be treated as business confidential shall be submitted on separate sheets, each clearly marked at the top "Business Confidential," as provided for in § 201.6 of the Commission's rules of practice and procedure.

By order of the Commission.

Issued: November 8, 1973.

KENNETH R. MASON,
Secretary.

[FR Doc.73-24250 Filed 11-13-73;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DELAWARE

Modifications to Development Plan

1. *Submission of modifications.* Pursuant to section 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) and 29 CFR 1902.11, notice is hereby given that modifications to the Occupational Safety and Health Plan for the State of Delaware, for which notice of submission and informal hearing thereon was given at 38 FR 1619, have been submitted to the Assistant Secretary of Labor for Occupational Safety and Health. The Assistant Secretary has preliminarily reviewed the modifications, and hereby gives notice that the question of approval of the plan, as modified, is in issue before him.

The modifications include the following: expanded description of the training program; revision of implementation schedule for the agricultural, occupational health, and training and consultation programs; and increase in Occupational Safety and Health Section personnel.

The modifications also include proposed legislation, accompanied by a letter of support from the Governor, concerning the following topics: prohibition against advance notice of inspections; protection for public employees; publication of the Act and regulations; notice to employees of application for permanent variances; employee discrimination; and trade secrets.

A copy of the plan, with modifications, may be inspected and copied during normal business hours at the following locations: Office of Federal and State Operations, Occupational Safety and Health Administration, Room 305, 400 First Street NW., Washington, D.C. 20210; Assistant Regional Director, Occupational Safety and Health Administration, U.S. Department of Labor, Suite 410, Penn Square Building, 1317 Filbert Street, Philadelphia, Pa. 19107; and the Department of Labor, Division of Industrial Affairs, 801 West Street, Wilmington, Delaware 19899.

2. *Public participation.* Interested persons are hereby given until December 14, 1973, in which to submit to the Assistant Secretary written data, views, and arguments concerning the Plan. The submissions are to be addressed to the Director, Office of Federal and State Operations, Room 305, Railway Labor Building, 400 First Street NW., Washington, D.C. 20210. The written comments will be available for public inspection and copying at the above address.

Any interested person(s) may request an informal hearing concerning the proposed Plan, or any part thereof, whenever particularized written objections thereto are filed by December 14, 1973. If the Assistant Secretary finds that substantial objections are filed, he shall hold a formal or informal hearing on the subjects and issues involved.

The Assistant Secretary of Labor for Occupational Safety and Health shall thereafter consider all relevant comments and arguments presented and issue his decision as to approval or disapproval of the Plan.

Signed at Washington, D.C. this 6th day of November, 1973.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.73-24283 Filed 11-13-73;8:45 am]

[Notice No. 385]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

NOVEMBER 9, 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 November 14, 1973.

MC-136420 Sub-1, Oklahoma Border Express, Inc., now being assigned continued hearings January 14, 1974 (1 week), at Oklahoma City, Okla., and January 21, 1974 (1 week), at Amarillo, Tex., in hearing rooms to be later designated.

MC-138730 Sub-1, Caravan Tours, Inc., DBA Caravan Towne Cars, now being assigned hearing January 28, 1974 (1 week), at Parsippany, N.J., in a hearing room to be later designated.

MC-C-8095, Kerek Air Freight Corporation, et al v. S. S. Bertz & Sons, Inc., et al, now assigned December 3, 1973, will be held in Room 3240, William J. Green Jr., Federal Bldg., 600 Arch Street, Philadelphia, Pa.

MC-135647, Robert Emanuel and Margaret Emanuel, DBA Emanuel's Express, now assigned December 5, 1973, will be held in Room 3240, William J. Green Jr., Federal Bldg., 600 Arch Street, Philadelphia, Pa.

MC-35807 Sub 34, Wells Fargo Armored Service Corp., now assigned December 10, 1973, will be held in U.S. Custom Courtroom, 3rd Floor, U.S. Customs House, 2nd & Chestnut Street, Philadelphia, Pa.

MC-67591 Sub 16, Evans Delivery Company, Inc., now assigned December 12, 1973, will be held in U.S. Custom Courtroom, 3rd Floor, U.S. Customs House, 2nd & Chestnut Street, Philadelphia, Pa.

MC 115840 Sub 79, Colonial Fast Freight Lines, Inc., now assigned January 21, 1974, at Birmingham, Ala., is postponed indefinitely.

MC 133194, Woodline, Inc.—Common Carrier Application—now being assigned hearing January 29, 1974 (3 days), at Little Rock, Ark., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-24299 Filed 11-13-73;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

NOVEMBER 9, 1973.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before November 29, 1973.

FSA No. 42770—*Resin or Plastic Plasticizers to Specified Points in New Jersey.* Filed by Southwestern Freight Bureau, Agent (No. B-443), for interested rail carriers. Rates on resin or plastic plasticizers, in tank-car loads, as described in the application, from Bayport, East Baytown, Houston, Nadeau, and Texas City, Texas, to Bayway, Bayonne, Carteret, and Elizabethport, N.J.

Grounds for relief—Market competition.

Tariff—Supplement 73 to Southwestern Freight Bureau, Agent, tariff 355-C, I.C.C. No. 5062. Rates are published to become effective on December 13, 1973.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-24301 Filed 11-13-73;8:45 am]

[Notice No. 36]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

NOVEMBER 9, 1973.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969 (49 CFR 1042.4(c)(11))

and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(c)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-262 (Deviation No. 12), GARRETT FREIGHTLINES, INC., P.O. Box 4048, Pocatello, Idaho 83201, filed October 26, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Emeryville, Calif., over Interstate Highway 80 to junction Interstate Highway 505, thence over Interstate Highway 505 to junction Interstate Highway 5, thence over Interstate Highway 5 to junction U.S. Highway 97, thence over U.S. Highway 97 to junction U.S. Highway 30 at or near Biggs, Oreg., and (2) From Sacramento, Calif., over Interstate Highway 5 to junction U.S. Highway 97, thence over U.S. Highway 97 to junction U.S. Highway 30, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Emeryville, Calif., over U.S. Highway 40 to junction U.S. Highway 95, thence over U.S. Highway 95 to junction Oregon Highway 78, thence over Oregon Highway 78 to junction U.S. Highway 395, thence over U.S. Highway 395 to junction U.S. Highway 26, thence over U.S. Highway 26 to junction Oregon Highway 19, thence over Oregon Highway 19 to junction U.S. Highway 30, thence over U.S. Highway 30 to junction U.S. Highway 97, and return over the same route.

No. MC-33641 (Deviation No. 45), IML FREIGHT, INC., P.O. Box 2277, Salt Lake City, Utah 84110, filed October 31, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Las Vegas, Nev., over U.S. Highway 93 to Wickenburg, Ariz., thence over U.S. Highway 89 to Phoenix, Ariz., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Las Vegas, Nev., over U.S. Highway 91 (Interstate Highway 15) to Harrisburg, Utah, thence over Utah Highway 17 to LaVerkin, Utah, thence over Utah Highway 15 to Mt. Carmel Junction, Utah, thence over U.S. Highway 89 to Kanab, Utah, thence over Alternate U.S. Highway 89 to junction U.S. Highway 89 near Bitter Springs, Ariz., thence over U.S. Highway 89 to Flagstaff, Ariz., thence over Arizona Highway 79 and Interstate Highway 17 to Phoenix, Ariz., and return over the same route.

No. MC-33641 (Deviation No. 49), IML FREIGHT, INC., P.O. Box 2277, Salt Lake City, Utah 84110, filed October 31, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Denver, Colo., over U.S. Highway 285 to Monte Vista, Colo., thence over U.S. Highway 160 to junction U.S. Highway 550 near Durango, Colo., thence over U.S. Highway 550 to Shiprock, N. Mex., thence over New Mexico and Arizona Highway 504 to junction U.S. Highway 164, thence over U.S. Highway 164 to junction U.S. Highway 89, thence over U.S. Highway 89 to Flagstaff, Ariz., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Denver, Colo., over U.S. Highway 40 to junction Alternate U.S. Highway 40, thence over Alternate U.S. Highway 40 via Snyderville, Utah, to junction U.S. Highway 40, thence over U.S. Highway 40 to Salt Lake City, Utah, thence over U.S. Highway 91 to Anderson, Utah, thence over Utah Highway 15 to Mt. Carmel Junction, Utah, thence over U.S. Highway 89 to Kanab, Utah, thence over Alternate U.S. Highway 89 to junction U.S. Highway 89 near Bitter Springs, Ariz., thence over U.S. Highway 89 to Flagstaff, Ariz., and return over the same route.

No. MC-33641 (Deviation No. 50), IML FREIGHT, INC., P.O. Box 2277, Salt Lake City, Utah 84110, filed October 31, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From St. Louis, Mo., over Interstate Highway 44 (U.S. Highway 66) to Oklahoma City, Okla., thence over Interstate Highway 40 (U.S. Highway 66) to Flagstaff, Ariz., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From St. Louis, Mo., over Missouri Highway 100 to junction U.S. Highway 50 near Gray Summit, Mo., thence over U.S. Highway 50 to Kansas City, Mo., thence over U.S. Highway 24 to junction U.S. Highway 281, thence over U.S. Highway 281 to Smith Center, Kans., thence over U.S. Highway 36 via St. Francis and Norton, Kans., to Denver, Colo., thence over U.S. Highway 40 to junction Alternate U.S. Highway 40, thence over Alternate U.S. Highway 40 via Snyderville, Utah, to junction U.S. Highway 40, thence over U.S. Highway 40 to Salt Lake City, Utah, thence over U.S. Highway 91 to Anderson, Utah, thence over Utah Highway 15 to Mt. Carmel Junction, Utah, thence over U.S. Highway 89 to Kanab, Utah, thence over Alternate U.S. Highway 89 to junction U.S. Highway 89 near Bitter Springs, Ariz., thence over U.S. Highway 89 to Flagstaff, Ariz., and return over the same route.

No. MC-33641 (Deviation No. 51), IML FREIGHT, INC., P.O. Box 2277, Salt Lake City, Utah 84110, filed October 31, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Kansas City, Mo., over U.S. Highway 50 (Interstate Highway 35), to junction Kansas Turnpike near Emporia, Kans., thence over Kansas Turnpike (Interstate Highway 35), to junction U.S. Highway 54 near Wichita, Kans., thence over U.S. Highway 54 to Tucumcari, N. Mex., thence over U.S. Highway 66 (Interstate Highway 40), to Flagstaff, Ariz., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Kansas City, Mo., over U.S. Highway 24 to junction U.S. Highway 281, then over U.S. Highway 281 to Smith Center, Kans., thence over U.S. Highway 36 via St. Francis and Norton, Kans., to Denver, Colo., thence over U.S. Highway 40 to junction Alternate U.S. Highway 40, thence over Alternate U.S. Highway 40 via Snyderville, Utah, to junction U.S. Highway 40, thence over U.S. Highway 40 to Salt Lake City, Utah, thence over U.S. Highway 91 to Anderson, Utah, thence over Utah Highway 15 to Mt. Carmel Junction, Utah, thence over U.S. Highway 89 to Kanab, Utah, thence over Alternate U.S. Highway 89 to junction U.S. Highway 89 near Bitter Springs, Ariz., thence over U.S. Highway 89 to Flagstaff, Ariz., and return over the same route.

No. MC-11220 (Deviation No. 22), GORDONS TRANSPORTS, INC., 185 W. McLemore Avenue, Memphis, Tennessee 38101, filed October 31, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Fort Smith, Ark., over U.S. Highway 64 to junction Interstate Highway 40 near Muldrow, Okla., thence over Interstate Highway 40 to junction U.S. Highway 69 near Checotah, Okla., thence over U.S. Highway 69 to Atoka, Okla., thence over U.S. Highway 69 and U.S. Highway 75 to Durant, Okla., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Fort Smith, Ark., over Arkansas Highway 45 to junction U.S. Highway 271, thence over U.S. Highway 271 to junction U.S. Highway 70, thence

over U.S. Highway 70 to Durant, Okla., and return over the same route.

By the Commission.

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

[FR Doc.73-24296 Filed 11-13-73;8:45 am]

[Notice No. 89]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

NOVEMBER 9, 1973.

The following publications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972), states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by the new Special Rule 1100.247 of the Commission's Rules of Practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

SPECIAL NOTICE: The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable by the Commission.

MOTOR CARRIERS OF PROPERTY

No. MC 114004 (Sub-No. 125) (REPUBLICATION), filed March 12, 1973, published in the FEDERAL REGISTER issue of April 26, 1973, and republished this issue. 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. A Report and Order of the Commission, Review Board Number 3, dated October 17, 1973, and served November 2, 1973, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of *trailers* designed to be drawn by passenger automobiles, in initial movements, and *buildings*, in sections, from an origin which is a point of manufacture, from the facilities of Douglas Associates, doing business as American Homes, Inc., in Jackson County, W. Va., to points in Ohio, Pennsylvania, Kentucky, Virginia, and Maryland; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 104896 (Sub-No. 40), (NOTICE OF FILING OF PETITION TO MODIFY A VEHICLE RESTRICTION), filed October 19, 1973. Petitioner: WOMELDORF, INC., P.O. Box 877, Washington, Pa. 14301. Petitioner's representative: V. Baker Smith, 123 South Broad Street, Philadelphia, Pa. 19109. Petitioner presently holds a motor *common carrier* certificate in No. MC 104896, issued January 31, 1973, authorizing transportation, over irregular routes, of *food and foodstuffs* (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the facilities of Kraft Foods Division of Kraftco Corporation at or near Fogelsville, Pa., to points in Delaware, Maryland, Connecticut, Maine, Massachusetts, New Jersey, New Hampshire, New York, Ohio, Rhode Island, Vermont, Virginia, and West Virginia, restricted to traffic originating at the named origin points and destined to the named destination points. By the instant petition, petitioner seeks to modify its vehicle restriction to read either: (a) "in vehicles equipped to protect such products from heat or cold", (b) "in vehicles equipped with mechanical refrigeration" or (c) deletion of the restriction "in vehicles equipped with mechanical refrigeration." Any interested person or persons desiring to participate may file an original and six copies of his written representation, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 113106 (Sub-No. 33) (NOTICE OF FILING OF PETITION TO MODIFY a COMMODITY DESCRIPTION), filed October 26, 1973. Petitioner: THE BLUE DIAMOND COMPANY, a Corporation, 4401 East Fairmont Avenue, Baltimore, Maryland 21224. Petitioner's representative: Chester A. Zyblut, 1522 K Street NW., Washington, D.C. 20005. Petitioner presently holds a motor *common carrier* certificate in No. MC 113106 (Sub-No. 33), issued March 16, 1973, authorizing transportation, over irregular routes, of *salt*, from the facilities of the Morton Salt Company, Division of Morton International, Inc., at Milo, N.Y., to points in Pennsylvania, New Jersey, Delaware, Maryland, Virginia, and the District of Columbia. By the instant petition, petitioner seeks to add salt products, calcium chloride and mixtures thereof, to the commodity described above. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition on or before December 14, 1973.

No. MC 123502 (Sub-No. 31) (NOTICE OF FILING OF PETITION TO MODIFY A COMMODITY DESCRIPTION), filed October 31, 1973. Petitioner: FREE STATE TRUCK SERVICE, INC., P.O. Box 760, Glen Burnie, Md. 21061. Petitioner's representative: W. Wilson Corroum (same address as petitioner). Petitioner presently holds a motor *common carrier* certificate in No. MC 123502 (Sub-No. 31), issued April 13, 1971, authorizing transportation, over irregular routes, of *salt*, from the facilities of the Morton Salt Company, Division of Morton International, Inc., at Milo, N.Y., to points in Delaware, Maryland, New Jersey, North Carolina, Pennsylvania, Virginia, West Virginia, and the District of Columbia. By the instant petition, petitioner seeks to modify its commodity description to read: *"Salt, salt products, calcium chloride and mixtures thereof"*. Any interested person or persons desiring to participate may file an original and six copies of his written representation, views or arguments in support of or against the petition on or before December 14, 1973.

No. MC 128217 (NOTICE OF FILING OF PETITION FOR MODIFICATION OF PERMIT), filed August 23, 1973, as supplemented by petition filed October 15, 1973. Petitioner: REINHART MAYER, doing business as MAYER TRUCK LINE, Jamestown, N. Dak. Petitioner's representative: Gene P. Johnson, 425 Gate City Bldg., Fargo, N. Dak. 58102. Petitioner holds authority in Permit No. MC-128217, authorizing, as here pertinent, motor carrier operations, as a *contract carrier*, in the transportation over irregular routes of: *Iron and steel articles* as described in Group III of Appendix V to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, from Broadview, Chicago, and Chicago Heights, Ill., and Minneapolis, Minn., to Gwinner and Cooperstown, N. Dak., limited to a transportation service to be performed under a continuing contract or contracts with Clark Equipment Co., Melroe Division, of Gwinner, N. Dak. By order of October 16, 1973, of the Commission, Operating Rights Board, the subject rights were amended, as pertinent, to add the origin points of Joliet, Ill., and Burns Harbor, Ind. Now by petition, as supplemented, petitioner seeks to add Bismarck, N. Dak. as a destination point so that the pertinent portion of the authority would read:

From Broadview, Chicago, Chicago Heights, and Joliet, Illinois, Burns Harbor, Indiana and Minneapolis, Minnesota, to Gwinner, Cooperstown, and Bismarck, North Dakota.

Any interested person desiring to participate may file an original and six copies of his written representations, views or argument in support of or against the petition on or before December 14, 1973.

No. MC 134872 (Sub-No. 1) (CLARIFICATION OF A NOTICE OF FILING OF PETITION TO MODIFY A RESTRICTION), filed September 13, 1973, published in the FR Issue of October 11,

1973, and republished, as clarified this issue. Petitioner: GOSSELIN EXPRESS, LTD., 141 Smith Boulevard, Thetford Mines, Province of Quebec, Canada. Petitioner's representative: John J. Brady, Jr., 75 State Street, Albany, N.Y. 12207. Petitioner presently holds a motor *common carrier* certificate in No. MC 134872 (Sub-No. 1), issued December 21, 1972, authorizing transportation, over irregular routes, of *snowmobiles*, (1) from the ports of entry on the International Boundary line between the United States and Canada located on Michigan, New York, and Vermont, and near Jackman, Maine, to points in Connecticut, Indiana, Maine, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Wisconsin; and (2) from points in Michigan, Minnesota, and Wisconsin, to the ports of entry on the International Boundary line between the United States and Canada located in Michigan and New York, restricted in (1) and (2) above, against the transportation of shipments originating at or destined to points in Beauce, Frontenac and Kemouraska Counties, Quebec, and further restricted to shipments originating at or destined to the Province of Ontario, Canada. The purpose of this republication is to clarify petitioner's request for partial removal of its restriction to indicate petitioner seeks its restriction to read: "Restricted in (1) and (2) above, against the transportation of shipments originating at or destined to points in Beauce, Frontenac, and Kemouraska Counties, Quebec, and further restricted against shipments originating at the Province of Ontario, Canada." Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition on or before December 14, 1973.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's Special Rules governing notice of filing of applications by motor carriers of property or passengers under Sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

APPLICATION(S) FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 52110 (Sub-No. 138) (REPUBLICATION), filed July 3, 1973, published in the FEDERAL REGISTER issue of November 7, 1973, and republished with hearing designation this issue. Applicant: BRADY MOTORFRATE, INC., % Smith's Transfer Corporation, P.O. Box 1000, Staunton, Va. 24401. Applicant's representative: David G. Macdonald, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Des Moines, Iowa, and junction Iowa Highway 90 and Interstate Highway 35, serving no intermediate points and serving the said highway junction for joinder only: From Des Moines over Iowa Highway 90 to junction Interstate Highway 35, and return over the same route; (2) Between Des Moines, Iowa, and Blairsburg, Iowa, serving all intermediate points: From Des Moines over U.S. Highway 69 to Blairsburg, and return over the same route; and (3) Between St. Paul, Minn., and junction Minnesota Highway 5 and U.S. Highway 65, serving the intermediate and off-route points in the Minneapolis-St. Paul, Minn. Commercial Zone, as defined by the Commission and the off-route points of Chemolite Siding, Minn.: From St. Paul over city streets and connecting highways to Minneapolis, Minn., thence over Minnesota Highway 36 to junction Minnesota Highway 100, thence over Minnesota Highway 100 to junction Minnesota Highway 5, thence over Minnesota Highway 5 to junction U.S. Highway 65, and return over the same route, RESTRICTION: No shipments in (2) above, may be transported over this route moving to or from the Minneapolis-St. Paul Commercial Zone.

NOTE: Applicant presently holds authority coextensive with each of the routes requested. This is a matter directly related to the purchase proceeding in MC-F-11853, published in the FEDERAL REGISTER issue of May 2, 1973. The purpose of the application is to retain for use in existing routes 6, 17, and 37 the duplicative segments which might otherwise be cancelled upon consummation of the sale.

HEARING: November 26, 1973 (2 weeks), in Room 609, Federal Office Building, 911 Walnut St., Kansas City, Mo., at 9:30 o'clock United States Standard Time.

No. MC 52858 (Sub-No. 110), filed October 25, 1973. Applicant: CONVOY COMPANY, a Corporation, 3900 NW. Yeon Avenue, P.O. Box 10185, Portland, Oreg. 97210. Applicant's representative: Marvin Handler, 100 Pine Street, Suite 2550, San Francisco, Calif. 94111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles and trucks* in initial and secondary movements in driveaway and truckaway service, and *parts* therefor when accompanying shipments thereof, between points in Colorado (excluding government vehicles moving to or from government installations).

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. This is a matter directly related to the Section 5 purchase proceeding in MC-F-12030, published in the FEDERAL REGISTER issue of November 7, 1973. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or San Francisco, Calif.

No. MC-F-12022. Authority sought for purchase by CONSOLIDATED EXPRESS, INC., 501 N. Claiborne Ave., P.O. Box 3086, New Orleans, LA 70177, of the operating rights of BRADFORD HAGEN BRIAN, doing business as BRIAN DELIVERY SERVICE, 10034 Devonshire, Baton Rouge, LA 70809, and for acquisition by DENIS A. DRENNING, 128 Rosewood Dr., Metairie, LA 70005, of control of such rights through the purchase. Applicants' attorney: Guy H. Postell, Suite 713, 3384 Peachtree Rd. NE., Atlanta, GA 30326. Operating rights sought to be transferred: (1) *Cosmetics, toilet preparation, toilet articles, and premiums*, and (2) *equipment and supplies* used in connection with item (1) above, as a *contract carrier* over irregular routes, from Baton Rouge, La., to points in a defined area of Louisiana, with restriction. Vendee holds no authority from this Commission. However, it is affiliated with CONSOLIDATED PACKAGE DELIVERY, INC., 1036 Baronne St., New Orleans, LA 70150, which is authorized to operate as a *common carrier* in Louisiana and Mississippi. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-12035. Authority sought for purchase by KREITZ MOTOR EXPRESS, INC., P.O. Box 375, 220 Park Rd. North, Wyomissing, PA 19610, of the operating rights of RUSSELL TRUMBAUER, WARREN E. FLUCK, AND WILLIAM F. VOIGHT, JR., doing business as THE BUSKIRK COMPANY, R.D. #2, Newburg Rd., Easton, PA 18042, and for acquisition by JAMES ALAN VITEZ (as voting Trustee), 62 Upland Rd., Wyomissing, PA 19609, of control of such rights through the purchase. Applicants' attorney: Robert D. Gunderman, Suite 710, Statler Hilton, Buffalo, NY 14202. Operating rights sought to be transferred: *Machinery*, as a *common carrier* over irregular routes, between Philadelphia, Pa., and Wilmington, Del., between Philadelphia, Pa., on the one hand, and, on the other, points in New Jersey within 35 miles of Philadelphia; *roofing materials*, from Philadelphia, Pa., to Wilmington, Del., and points in New Jersey within 35 miles of Philadelphia; *hosiery knitting machines*, uncrated, of not less than 25 feet in length, between points in Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Maryland, Delaware, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Indiana, and Ohio; *Knitting machines*, set up, and *accessories therefor* when their transportation is incidental to the transportation of knitting machines, between points in Pennsylvania, on the other, points in Oregon; *used full-fashioned hosiery knitting machines* and *accessories thereto*, when their transportation is incidental to the transportation of such used full-fashioned hosiery knitting machines,

between points in Alabama, Delaware, Florida, Georgia, Illinois, Indiana, Maryland, Massachusetts, Mississippi, New Jersey, New York, North Carolina, South Carolina, Pennsylvania, Rhode Island, Tennessee, and Virginia, between points in Connecticut, the Lower Peninsula of Michigan, New Hampshire, Ohio, Texas, Vermont, and Wisconsin, between points in Alabama, Delaware, Florida, Georgia, Illinois, Indiana, Maryland, Massachusetts, Mississippi, New Jersey, New York, North Carolina, South Carolina, Pennsylvania, Rhode Island, Tennessee, and Virginia, on the one hand, and, on the other, points in Connecticut, the Lower Peninsula of Michigan, New Hampshire, Ohio, Texas, Vermont, and Wisconsin; *household goods* as defined by the Commission, between Easton, Pa., and points in Pennsylvania within 10 miles of Easton, on the one hand, and, on the other, points in New York, New Jersey, and Massachusetts; *printed matter*, between Easton, Pa., and points in Pennsylvania within 5 miles of Easton, on the one hand, and, on the other, Washington, N.J. Vendee is authorized to operate as a *common carrier* in Pennsylvania, New York, New Jersey, Massachusetts, Connecticut, Rhode Island, Delaware, Maryland, Ohio, Virginia, West Virginia, North Carolina, and the District of Columbia. Application has been filed for temporary authority under section 210 a(b).

No. MC–F–12036. Authority sought for purchase by P. LIEDTKA TRUCKING, INC., 110 Patterson Ave., Trenton, NJ 08610, of the operating rights of RUSH & TOAL, INC., 1004 Wood St., Philadelphia, PA 19107, and for acquisition by PHILIP LIEDTKA, also of Trenton, NJ 08610, of control of such rights through the purchase. Applicants' attorney: Alan Kahn, Suite 1920, Two Penn Center Plaza, Philadelphia, PA 19102. Operating rights sought to be transferred: *Building materials, contractors' equipment, and such commodities* as require specialized handling or rigging because of size or weight, as a *common carrier* over irregular routes, between Philadelphia, Pa., on the one hand, and, on the other, points in New Jersey, New York, Delaware, Virginia, Maryland, and the District of Columbia; *football equipment and athletic field tarpaulin*, between Philadelphia, Pa., and Annapolis, Md.; *commercial refrigeration cases and apparatus*, between Philadelphia, Pa., on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, and New York; *contractors' equipment and farm machinery*, between Philadelphia, Pa., on the one hand, and, on the other, points in New Jersey and Delaware. Vendee is authorized to operate as a *common carrier* in Pennsylvania, New Jersey, New York, Massachusetts, and the District of Columbia. Application has not been filed for temporary uthority aunder section 210a(b).

No. MC–F–12037. Authority sought for purchase by BUTLER TRUCKING COMPANY, P.O. Box 88, Woodland, PA 16881, of a portion of the operating rights of C. D. ZIMMERMAN, INC., Mifflintown, PA 17059, and for acquisition by EMANUEL BUTLER, JR., Drifting, PA 16834, E. STEWARD BUTLER AND D. STEPHEN BUTLER, both of Clearfield, PA 16830, of control of such rights through the purchase. Applicants' attorney: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. Operating rights sought to be transferred: *Firebrick, fireclay, and refractory products*, as a *common carrier* over irregular routes, from Salina (in Westmoreland County), Pa., to points in New York, and points in Bergen, Passaic, Essex, Hudson, Union, Middlesex, Morris, Hunterdon, Somerset, and Warren Counties, N.J. Vendee is authorized to operate as a *common carrier* in Ohio, Pennsylvania, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, Maine, Delaware, Maryland, West Virginia, Virginia, Alabama, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Missouri, North Carolina, Tennessee, Wisconsin, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–12038. Authority sought for control and merger by ARROW MOTOR FREIGHT LINE, INC., 601 S. LaSalle St., St. Paul, MN 55987, of the operating rights and property of RITE-WAY TRUCKING COMPANY, INC., 901 E. 13th Ave., North Kansas City, MO, and for acquisition by ALLEN E. KROBLIN, 2125 Commercial St., Waterloo, IA 50704, of control of such rights and property through the transaction. Applicants' representative: Allen E. Kroblin, also of Waterloo, IA 50704. Operating rights sought to be controlled and merged: *General commodities*, with exceptions, as a *common carrier* over regular routes, between Leon, Iowa, and St. Joseph, Mo., serving various intermediate and off-route points, with and without restrictions, between Leon, Iowa, and Des Moines, Iowa, serving all intermediate points, and the off-route points of Van Wert and Weldon, Iowa; also serving all intermediate and off-route points within 12 miles of the central post office at Des Moines (except Altoona, Ankeny, Carlisle, Des Moines, and Norwalk, Iowa), between Eagleville, Mo., and Kansas City, Kans., serving various intermediate and off-route points, with and without restrictions, between Eagleville and St. Joseph, Mo., serving various intermediate and off-route points. ARROW MOTOR FREIGHT LINE, INC., is authorized to operate as a *common carrier* in Minnesota, Wisconsin, Iowa, Illinois, South Dakota, and North Dakota. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

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

[FR Doc.73-24298 Filed 11-13-73;8:45 am]

[Notice No. 388]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before December 4, 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 matter relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–74736. By order entered November 8, 1973, the Motor Carrier Board approved the transfer to Interstate Courier Systems, Inc., New York, N.Y., of the operating rights set forth in Certificate No. MC–68917 (Sub-No. 5), issued March 8, 1951, to H. P. Welch Co., Somerville, Mass., authorizing the transportation of general commodities, with the usual exceptions, between New York, N.Y., on the one hand, and, on the other, points in New Jersey within 35 miles of City Hall, New York, N.Y. William D. Traub, 10 East 40th St., New York, N.Y. 10016, practitioner for applicants.

No. MC–FC–74802. By order entered November 7, 1973, the Motor Carrier Board approved the transfer to Air Freight Delivery Service, Inc., Winchester, Va., of the operating rights set forth in Certificates Nos. MC–133409 and MC–133409 (Sub-No. 2), issued December 1, 1969, and November 16, 1972, respectively, to Louis H. Foltz, doing business as Air Freight Delivery Service, Winchester, Va., authorizing the transportation of general commodities, except those of unusual value, classes A and B explosives, commodities in bulk, and commodities requiring special equipment, between points in Frederick County, Va., on the one hand, and, on the other, Friendship International Airport at Baltimore, Md., Dulles International Airport, at Chantilly, Va., and Washington National Airport, at Alexandria, Va., restricted to the transportation of shipments having an immediately prior or subsequent movement by air; and between points in Shenandoah, Page, and Warren Counties, Va., on the one hand, and, on the other, Friendship International Airport at Baltimore, Md., Dulles International Airport at Chantilly, Va., and Washington National Airport, at

Alexandria, Va., restricted to the transportation of shipments having an immediately prior or subsequent movement by air. Frank B. Hand, Jr., P.O. Box 446, Winchester, Va. 22601, attorney for applicants.

No. MC-FC-74804. By order of November 8, 1973, the Motor Carrier Board approved the transfer to James & William Harris, Inc., Paramount, Calif., of the operating rights in Certificate No. MC-32606 issued October 5, 1973 to William A. Harris and James L. Harris, a partnership, doing business as Harris, Trucking Co., Paramount, Calif., authorizing the transportation of lumber, forest products and pre-fabricated wooden trusses from and to specified points in California, and a described area in Nevada. Milton W. Flack, 4311 Wilshire Blvd., Los Angeles, Calif. 90010, Attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-24300 Filed 11-13-73;8:45 am]

MOTOR CARRIER INTRASTATE APPLICATIONS NOTICE

NOVEMBER 9, 1973.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by § 1.245 of the Commission's Rules of Practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Colorado Docket No. 26988 filed September 17, 1973. Applicant: DONALD R. WILLS, doing business as TWEEDY TRANSFER, Elbert, Colo. 80106. Applicant's representative: John P. Thompson, 405 Capitol Life Center, Denver, Colo. 80203. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General Commodities*, except livestock, commodities in bulk, in tank vehicles, and used unpacked and uncrated household goods. Between Denver, Kiowa, and Elbert, Colo., over the following routes: (1) From Denver over Interstate Highway 70 thence over Interstate Highway 225 to Colorado Highway 83 (Parker Road) to Franktown, Colo.; thence over Colorado Highway 86 to Kiowa, Colo.; thence over Elbert County Highway 157 to Elbert, Colo., and return over same route; and (2) Over Interstate Highway 25 to Colorado Highway 88 (Arapahoe Road); thence over Colorado Highway 88 to Colorado Highway 83 (Parker Road); thence over Colorado Highway 83 to Franktown, Colo.; thence over Colorado Highway 86 to Kiowa, Colo.; thence over Elbert County Highway 157 to Elbert, Colo., and return over same route. Serving as intermediate points all points located on said highways commencing at the north county line of Douglas County and ending at Elbert, Colo.; and serving as off-route points those points lying in the area within two miles west of Colorado Highway 83 and ten miles east thereof; and all points within ten miles north and ten miles south of Colorado Highway 86 from Franktown to Kiowa, Colo.; and all points lying within ten miles east and ten miles west of Elbert County Highway 157 from Kiowa to Elbert, Colo.; and within ten miles east and ten miles west of Elbert County Highway 217 from Elbert, Colo., to a point on Elbert County Highway 217 located ten miles south of Elbert, Colo.

HEARING: January 16, 1974 at the hearing room of the Colorado Public Utilities Commission, 500 Columbine Building, 1845 Sherman Street, Denver, Colo., at 10:00 A.M. Requests for procedural information should be addressed to the Colorado Public Utilities Commission, 500 Columbine Building, 1845 Sherman Street, Denver, Colo. 80203, and should not be directed to the Interstate Commerce Commission.

Kansas Docket No. 99579M filed September 1973. Applicant: DALE A. ZOGLEMAN, doing business as WESTERN KANSAS EXPRESS, P.O. Box 219, Augusta, Kans. 67010. Applicant's representative: Franklin D. Gaines, 116 East 5th Street, Augusta, Kans. 67010. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *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 over regular routes: Part I: (1) To and from and between Wichita and Dodge City, Kans., serving all intermediate points. To from and between Wichita, Kans., west over U.S. Highway 54 to the Bucklin Interchange, thence Northwest over U.S. Highway 154 to Dodge City, Kans., and return; Part II: (2) To and from and between Wichita and Ellsworth, Kans., serving all intermediate points. To from and between Wichita, Kans., North over U.S. Interstate Highway 35 to Salina, Kans., to intersect with Kansas Highway 140 at Interstate Highway 35 Interchange, thence Westerly over Kansas Highway 140 to Ellsworth, and return; Part III: (3) To and from and between Wichita and Russell, Kans., serving all intermediate points. To from and between Wichita, Kans., North over Interstate Highway 35 to McPherson Interchange, thence West over U.S. Highway 56 to Great Bend Interchange, thence North over U.S. Highway 281, to Russell, Kans., thence South over U.S. Highway 281 to the Great Bend Interchange, thence Southwest over U.S. Highway 56/156 to Larned, Kans., and return; Part IV: (4) To and from and between Wichita and Dodge City, Kans., serving all intermediate points. To from and between Wichita, Kans., North over Maize Road to Kansas Highway 96 Interchange, thence Northwest over Kansas Highway 96 to Hutchinson, Kans., thence West over U.S. Highway 50 to the Kinsley Interchange, thence Westerly over U.S. Highway 50/56 to Dodge City, Kans., and return; Part V: (5) Also the following alternate routes are to be filed for operating convenience only: (a) Between Salina and Russell on Interstate Highway 70; (b) Between Interstate Highway 70 and Kansas Highway 140 over U.S. Highway 156; (c) Between Ellsworth and Dorrance over Kansas Highway 140; (d) Between Ellsworth and Great Bend over U.S. Highway 156; (e) Between Larned and Kinsley over U.S. Highway 50/56; (f) Between Spearville and Ford over Kansas Highway 94; (g) Between Mullinville and over Interstate Highway 154 and Interstate Highway 54 Interchange; (h) Between Pratt and Great Bend, Kans., over U.S. Highway 281; and (i) Between Hutchinson and Newton, Kans., over U.S. Highway 50. Interstate and intrastate authority sought.

HEARING: December 3, 1973, for the entire week, at the Holiday Inn Midtown, Fiesta Room, Wichita, Kans., at 10:00 A.M. with further hearings to be held in Dodge City, Great Bend, Hutchinson and Salina, Kans. Requests for procedural information should be addressed to the Kansas State Corporation Commission, Fourth floor, State Office Building, Topeka, Kans. 66612; and should not be directed to the Interstate Commerce Commission.

Oklahoma Docket No. MC 23190 (Sub-No. 4), filed October 29, 1973. Applicant: OKMULGEE EXPRESS, INC., 8202 East 41st Street, Tulsa, Okla. 74107. Applicant's representative: Rufus H. Lawson, 2400 N.W. 23rd Street, P.O. Box 75124, Oklahoma City, Okla. 73107. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities*, over regular route, between Tulsa, Okla., and Stilwell, Okla., serving Tulsa, Okla., and Locust Grove, Okla., as an alternate route, and serving Parkhill and Greenleaf Nursery (near intersection of State Highways 82 and 100) as intermediate points. From Tulsa, Okla., via State Highway 33 to its intersection with State Highway 82, thence via State Highway 82 to its intersection with State Highway 100, thence via State Highway 100 to Stilwell, Okla., and return over the same route. Interstate and intrastate authority sought. HEARING: December 31, 1973, at 300 Jim Thorpe Office Bldg., Oklahoma City, Okla., at 9 a.m. Requests for procedural information should be addressed to the Oklahoma Corporation Commission, Jim Thorpe Office Building, Oklahoma City, Okla. 73105, and should *not* be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-24297 Filed 11-13-73;8:45 am]

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WASHINGTON, D.C.

Volume 38 ■ Number 219

PART II

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

■

DELEGATION OF FUNCTIONS UNDER THE FEDERAL-AID HIGHWAY ACT OF 1973 (PUBLIC LAW 93-87)

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 1; Amdt. 1–82]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Delegation of Functions Under the Federal-Aid Highway Act of 1973 (Public Law 93–87)

The purpose of this amendment is to delegate to appropriate Secretarial Officers and operating administrators functions vested in the Secretary by Pub. L. 93–87, commonly known as the "Federal-Aid Highway Act of 1973" (August 13, 1973, Public Law 93–87, 87 Stat. 250).

There are actually four titles in Public Law 93–87, only the first of which is the Federal-Aid Highway Act of 1973. The second is the Highway Safety Act of 1973. The third, unnamed, amends the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.). The fourth, also unnamed, contains two miscellaneous provisions.

In addition to amending the Urban Mass Transportation Act of 1964, as amended, Public Law 93–87 does four things:

(1) Amends title 23, United States Code.

(2) Requires the Secretary to conduct certain demonstration projects or programs and submit reports thereon.

(3) Requires the Secretary to conduct certain studies and submit a single report on each.

(4) Authorizes necessary appropriations.

The amendments to the Urban Mass Transportation Act of 1964, as amended; the amendments to title 23, United States Code; and the provisions requiring demonstration projects or programs and reports thereon require new and amended delegations to certain Secretarial Officers and to the Federal Highway Administrator, the National Highway Traffic Safety Administrator, and the Urban Mass Transportation Administrator. These delegations are effected by this document.

Responsibility for production of the single reports on each of certain studies, mentioned in item (3) above, has been assigned by internal Departmental directive, Department of Transportation (DOT) Order 1323.2D, "Monitoring Coordination and Transmittal of Reports to the Congress," dated October 25, 1973. A discussion of those responsibilities which are not delegated by this document but are assigned by that Order follows:

ONE-TIME REPORTS

Nature of report	Responsible office	Authority
1. Of Federal statutes and regulations governing toll bridges over navigable waters of the U.S., recommendations for modification and improvements.	Office of the Assistant Secretary for Policy, Plans and International Affairs, with Federal Highway Administration participation.	Sec. 133(a).
2. On assuring just and reasonable tolls for the toll bridge at Chester, Ill.	Federal Highway Administration	Sec. 133(a).
3. To determine the feasibility of establishing a national system of scenic highways.	Federal Highway Administration with participation of the Office of the Assistant Secretary for Policy, Plans and International Affairs and the Office of the Assistant Secretary for Environment, Safety and Consumer Affairs.	Sec. 134(a).
4. Study to examine problems of user access to parks, recreation areas, historic sites, and wildlife refuges.	The Office of the Assistant Secretary for Environment, Safety and Consumer Affairs, with participation of the Federal Highway Administration and the Urban Mass Transportation Administration.	Sec. 134(b).
5. Evaluation of the portion of the 1972 National Transportation Report pertaining to public mass transportation.	The Office of the Assistant Secretary for Policy, Plans and International Affairs, with participation of the Federal Highway Administration and the Urban Mass Transportation Administration.	Sec. 138(a).
6. Study of possible funding mechanisms for public mass transportation.	The Office of the Assistant Secretary for Policy, Plans and International Affairs, with participation of the Federal Highway Administration and the Urban Mass Transportation Administration.	Sec. 138(b).
7. Feasibility and necessity for constructing highways along 10 proposed routes.	Federal Highway Administration	Sec. 143.
8. Study of litter accumulation within the rights-of-way of Federal-aid highway systems and recommendations for improved State clean-up procedures.	Federal Highway Administration, with participation of the Office of the Assistant Secretary for Environment, Safety and Consumer Affairs.	Sec. 155.
9. Study of the use of mass media for informing and educating the public of ways and means for reducing the number and severity of highway accidents.	Office of Public Affairs, with participation of the Federal Highway Administration and the National Highway Traffic Safety Administration.	Sec. 211(a).
10. Study of ways and means for encouraging greater citizen participation and involvement in highway safety programs.	National Highway Traffic Safety Administration, with participation of the Office of the Assistant Secretary for Environment, Safety and Consumer Affairs and the Federal Highway Administration.	Sec. 212.
11. Study of the feasibility of establishing a National Center for Statistical Analysis of Highway Operations.	National Highway Traffic Safety Administration, with participation of the Office of the Assistant Secretary for Administration and the Federal Highway Administration.	Sec. 213.
12. Study of pedestrian and bicycle safety.	National Highway Traffic Safety Administration, with participation of the Office of the Assistant Secretary for Environment, Safety and Consumer Affairs and the Federal Highway Administration.	Sec. 214.
13. Study of highway safety needs and recommendations and cost estimates for meeting such needs.	Federal Highway Administration and the National Highway Traffic Safety Administration, with participation of the Office of the Assistant Secretary for Policy, Plans and International Affairs, the Office of the Assistant Secretary for Environment, Safety and Consumer Affairs, and the Deputy Under Secretary for Budget and Program Review.	Sec. 225.

The exercise of certain powers and duties vested in the Secretary by various laws are controlled by the Departmental Organization Manual, DOT Order 1100.23. Although that Order and not this document imposes those controls, a discussion of the powers, duties, and controls which are relevant to the delegations effected by this document follows:

CONTROL OF CERTAIN POWERS AND DUTIES

Powers and Duties	*Controls*
1. The Federal Highway Administrator with respect to the following powers and duties prescribed by Title 23 U.S.C.:	
(a) Withdrawals and/or redesignations of mileage on the Interstate system under 23 U.S.C. 103(e)(2).	Prior coordination with the Office of the Secretary through the Office of the Deputy Under Secretary on regulations, guidelines, withdrawals and redesignations.
(b) Issuance, modification or revocation of proposed or final regulations for the designation or approval of Federal-aid Highway systems under 23 U.S.C. 103(f).	Prior coordination with the General Counsel on all regulations. Joint development with the Urban Mass Transportation Administrator of all regulations and guidelines for the Federal-aid urban system under 23 U.S.C. 103(f). Concurrence of the Urban Mass Transportation Administrator in systems actions for the Federal-aid urban system which involve mass transportation projects authorized by 23 U.S.C. 142(a)(2) or 142(c).
(c) Promulgation of noise standards under 23 U.S.C. 109(i).	Concurrence of the Assistant Secretaries for Systems Development and Technology and Environment, Safety and Consumer Affairs in standards and regulations.
(d) Reports to the Public Works Committees of the House and Senate of contracts awarded on a basis other than competitive bidding under 23 U.S.C. 112(b).	Preparation of reports with information provided as appropriate by the Urban Mass Transportation Administrator.
(e) The availability to the States of funds apportioned to each Federal-aid system under 23 U.S.C. 118.	Review by the Urban Mass Transportation Administrator as it relates to the Federal-aid urban system.
(f) Fringe and corridor parking facilities (23 U.S.C. 137).	Prior coordination with the Urban Mass Transportation Administrator and the Deputy Under Secretary.
(g) Construction of express bus lanes and other facilities authorized by 23 U.S.C. 142(a)(1) and exclusive or preferential bus, truck or emergency vehicle lanes on the Interstate system under 23 U.S.C. 142(b).	Joint development with the Urban Mass Transportation Administrator and prior coordination with the Office of the Secretary through the Office of the Deputy Under Secretary of regulations and guidelines, and review by the Urban Mass Transportation Administrator of all actions.
(h) Mass transportation use of highway right of way (23 U.S.C. 142(g)).	Joint development with the Urban Mass Transportation Administrator and prior coordination with the Office of the Secretary through the Office of the General Counsel of regulations, and review by the Urban Mass Transportation Administrator of authorizations.
(i) Grants for economic growth center development highways authorized by 23 U.S.C. 143.	Review of standards and regulations by the Assistant Secretary for Policy, Plans and International Affairs.
(j) The Special Urban High Density Traffic program authorized by 23 U.S.C. 146.	Prior coordination with the Office of the Secretary through the Office of the Deputy Under Secretary and review by the Urban Mass Transportation Administrator of regulations and guidelines. Concurrence of the Urban Mass Transportation Administrator in all determinations made under 23 U.S.C. 146(a)(6).
(k) Establishment of priority primary routes authorized by 23 U.S.C. 147.	Prior coordination of regulations with the Office of the Secretary through the Office of the General Counsel.
2. The Federal Highway Administrator with respect to the issuance, modification or revocation of proposed or final regulations for Forest Highways, Defense Access Roads, Parkways, Park Roads and Trails (chapter 2 of 23 U.S.C.).	Prior coordination with the Office of the Secretary through the Office of the General Counsel.

Powers and Duties	*Controls*
3. The Federal Highway Administrator concerning the issuance of policy and procedure memoranda or regulations having policy implications in such areas as economics, social, environmental, replacement housing, urban systems, and regional or National transportation systems with respect to the impact on those areas by the Federal-aid Highway Act of 1970.	Coordination at an early stage with the Office of the Secretary (especially the General Counsel, the Assistant Secretary for Policy, Plans and International Affairs, the Assistant Secretary for Environment, Safety and Consumer Affairs, and the Deputy Under Secretary). Where the Office of the Secretary concurrence is specified, such concurrence may be assumed if not received within 30 days of referral, unless notification to the contrary is received in writing.
4. The Federal Highway Administrator with respect to the following powers and duties prescribed by the Federal-aid Highway Act of 1973, P.L. 93–87:	
(a) The Rural Highway Public Transportation Demonstration Program authorized by section 147.	Joint development of regulations and guidelines with the Urban Mass Transportation Administrator. Prior coordination of regulations and guidelines with the Office of the Secretary through the Office of the General Counsel.
(b) Approval of Interstate 93 as a parkway through Franconia Notch, New Hampshire (section 158).	Concurrence of the Assistant Secretary for Environment, Safety and Consumer Affairs.
(c) The Railroad-Highway Crossings Demonstration Project authorized by section 163.	With support of the Federal Railroad Administrator.
5. The Federal Highway Administrator with respect to the elimination of rail-highway crossings authorized by section 203 of the Highway Safety Act of 1973, P.L. 93–87.	With support of the Federal Railroad Administrator.
6. The Federal Highway Administrator and the Urban Mass Transportation Administrator with respect to the following powers and duties prescribed by Title 23 U.S.C.:	
(a) Withdrawals of mileage from the Interstate system and substitution of mass transportation projects under 23 U.S.C. 103(e)(4).	Joint development and prior coordination with the Office of the Secretary through the Office of the Deputy Under Secretary on regulations and guidelines.
(b) Approval of programs for projects on the Federal-aid urban system under 23 U.S.C. 105(d).	Joint development and prior coordination with the Office of the Secretary through the Office of the Deputy Under Secretary on guidelines and regulations. Joint approval of annual programs of projects.
(c) Issuance, modification or revocation of proposed or final regulations for the approval of plans, specifications and estimates for highway and mass transportation projects, respectively, under 23 U.S.C. 106(a).	Prior coordination with the General Counsel on all regulations.
(d) Acceptance or recision of certification by the States of performance, under 23 U.S.C. 117.	Prior coordination of regulations with the Office of the Secretary through the Office of the General Counsel.
(e) Comprehensive transportation planning in urban areas under 23 U.S.C. 134(a).	Joint development and prior coordination with the Office of the Secretary through the Office of the Deputy Under Secretary of all regulations and guidelines.
(f) State assurances of equal employment opportunity (23 U.S.C. 140(a)).	Joint development of regulations and guidelines.
(g) State assurance of continued use by mass transportation (23 U.S.C. 142(f)).	Joint development and prior coordination with the Office of the Secretary through the Office of the Deputy Under Secretary of regulations and guidelines.
(h) Allocation of urban system funds authorized by 23 U.S.C. 150.	Prior coordination with the Office of the Secretary through the Office of the Deputy Under Secretary on regulations and guidelines.
7. The Urban Mass Transportation Administrator with respect to the following powers and duties prescribed by Title 23 U.S.C.:	
(a) Mass transportation projects authorized by 23 U.S.C. 142(a)(2) and 142(c), and approval of mass transportation routes and schedules under 23 U.S.C. 142(d).	Joint development with the Federal Highway Administrator of regulations and guidelines under 23 U.S.C. 142(a)(2) and 142(c). Prior coordination of all regulations and guidelines with the Office of the Secretary through the Office of the Deputy Under Secretary. Review by the Federal Highway Administrator of all regulations, guidelines and actions under 23 U.S.C. 142(d).

Powers and Duties	*Controls*
(b) Determinations of inconsistency of provisions of Title 23 U.S.C. with projects authorized by 23 U.S.C. 142(a)(2) (23 U.S.C. 142(c)(2)).	Prior coordination of all determinations of inconsistency with the Office of the Secretary through the Office of the General Counsel.
8. The Urban Mass Transportation Administrator with respect to the following powers and duties prescribed by the Federal-aid Highway Act of 1973, P.L. 93-87:	
(a) The High Speed Transportation Demonstration project to Dulles International Airport, authorized by section 146.	With support of the Federal Highway and Federal Aviation Administrators and the Assistant Secretary for Environment, Safety and Consumer Affairs.
(b) Application of the clean air and noise standards to buses, and availability of mass transportation facilities to the elderly and handicapped under section 165.	Support of the Assistant Secretary for Environment, Safety and Consumer Affairs on noise and clean air standards for buses. Joint development with the Federal Highway Administrator and prior coordination with the Office of the Secretary through the Assistant Secretary for Environment, Safety and Consumer Affairs on regulations and guidelines for assurance of availability to the elderly and handicapped.
9. The Urban Mass Transportation Administrator with respect to grants for urban planning under section 9 of the Urban Mass Transportation Act of 1964, as amended.	Joint development with the Federal Highway Administrator and prior coordination with the Office of the Secretary through the Office of the Deputy Under Secretary of regulations and guidelines pertaining to comprehensive urban planning. Concurrence of the Federal Highway Administrator in approval of annual unified work programs for the use of these planning funds.
10. The Federal Highway Administrator and the National Highway Traffic Safety Administrator with respect to:	
(a) Apportionment, within assigned highway safety standards areas, to the States of highway safety authorizations (23 U.S.C. 402).	Such apportionments to be submitted to the States on a single document, jointly signed by the Federal Highway and National Highway Traffic Safety Administrators.
(b) Notification to States of funds available for highway safety grant programs.	Such notifications to be submitted to the States on a single document, jointly signed by the Federal Highway and National Highway Traffic Safety Administrators.
(c) Approval of multi-year, comprehensive highway safety program submissions and annual highway safety work programs.	Joint approval by the Federal Highway and National Highway Traffic Safety Administrators.
(d) Determination in each State (as defined in section 401), of the acceptability of the State agency assigned responsibility for highway safety programs in accordance with section 402(b)(1)(a) of Title 23, U.S.C., as amended by section 203 of the Highway Safety Act of 1970.	Joint approval by the Federal Highway and National Highway Traffic Safety Administrators.
11. The National Highway Traffic Safety Administrator with respect to Highway Safety Educational Programming authorized by section 211(c) of the Highway Safety Act of 1973.	With support of the Federal Highway Administrator and the Director of Public Affairs, Office of the Secretary. Concurrence of the Director of Public Affairs, Office of the Secretary, in regulations, guidelines and approvals.

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

In consideration of the foregoing, Part 1 of Title 49 of the Code of Federal Regulations is amended as follows:

1. In § 1.48, paragraphs (b), (c), and (n) are revised to read as follows:

§ 1.48 Delegations to Federal Highway Administrator.

* * * * *

(b) Administer the following sections of title 23, United States Code:

(1) 101(b), (c), (d), and (e), except as they involve mass transportation projects authorized by sections 103(e)(4), 142(a)(2), or 142(c);

(2) 103, except as it involves mass transportation projects authorized by subsection (e)(4);

(3) 104, including the apportionment of funds for Federal-aid Highways once Congress approves estimates submitted by the Secretary, except that subsection (f)(4) is to be administered with the concurrence of the Urban Mass Transportation Administrator;

(4) 105, except—

(i) As subsections (a) and (g) involve mass transportation projects authorized by sections 103(e)(4), 142(a)(2), or 142(c), and

(ii) That subsection (d) is to be administered with the concurrence of the Urban Mass Transportation Administrator;

(5) 106, except—

(i) Subsections (a), (c), and (d) as they involve mass transportation projects authorized by sections 103(e)(4), 142(a)(2), or 142(c), and

(ii) That subsection (b) as it involves the Federal-aid urban system is to be administered with the concurrence of the Urban Mass Transportation Administrator;

(6) 107;

(7) 108, except as it involves mass transportation projects authorized by sections 103(e)(4), 142(a)(2), or 142(c);

(8) 109, except subsections (a), (g), and (h) as they involve mass transportation projects authorized by sections 103(e)(4), 142(a)(2), or 142(c);

(9) 110, except as it involves mass transportation projects authorized by sections 103(e)(4), 142(a)(2), or 142(c);

(10) 111;

(11) 112, 113, and 114, except as they involve mass transportation projects authorized by sections 103(e)(4), 142(a)(2), or 142(c);

(12) 115;

(13) 116, except subsections (a) and (c) as they involve mass transportation projects authorized by sections 103(e)(4), 142(a)(2), or 142(c), and

(14) 117, except—

(i) Subsections (a), (b), and (d) as they involve mass transportation projects authorized by sections 103(e)(4), 142(a)(2), or 142(c), and

(ii) That subsection (c) is to be administered with the concurrence of the Urban Mass Transportation Administrator;

(15) 118 and 120;

(16) 121 and 122, except as they involve mass transportation projects authorized by sections 103(e)(4), 142(a)(2), or 142(c);

(17) 123;

(18) 124, except as it involves mass transportation projects authorized by sections 103(e)(4), 142(a)(2), or 142(c);

(19) 125, 126, and 127;

(20) 128, except as it involves mass transportation projects authorized by sections 103(e)(4), 142(a)(2), or 142(c);

(21) 129, 130, 131, and 132;

(22) 134(a) with the concurrence of the Urban Mass Transportation Administrator;

(23) 135, 136, 137, and 139;
(24) 140, except subsection (a) as it involves mass transportation projects authorized by sections 103(e)(4), 142(a)(2), or 142(c);
(25) 142, except as it involves mass transportation projects;
(26) 143 and 144;
(27) 145, except as it involves mass transportation projects authorized by sections 103(e)(4), 142(a)(2), or 142(c);
(28) 146, 147, 148, and 149;
(29) 150 with the concurrence of the Urban Mass Transportation Administrator;
(30) 151, 152, and 153;
(31) 201 through 218 (chapter 2);
(32) 301, 302, and 303;
(33) 304, 305, and 306, except as they involve mass transportation projects authorized by sections 103(e)(4), 142(a)(2), and 142(c);
(34) 307 through 314, inclusive;
(35) 315 and 317, except as they involve mass transportation projects authorized by sections 103(e)(4), 142(a)(2), or 142(c);
(36) 318 through 322, inclusive; and
(37) 323 and 324, except as they involve mass transportation projects authorized by sections 103(e)(4), 142(a)(2), or 142(c).

(c) Administer the following laws relating generally to highways:
(1) Sections 103, 104, 111(b), 128(b), 131, 133(b), 135, 136, 141, 147, 149, 154, 158, 159, 160, 161, 163, 203, 206, 401, and 402 of Public Law 93-87 (87 Stat. 250);
(2) The Federal-Aid Highway Act of 1970, as amended (except section 118) (84 Stat. 1713);
(3) The Federal-Aid Highway Act of 1968, as amended (82 Stat. 815);
(4) The Federal-Aid Highway Act of 1966, as amended (82 Stat. 766);
(5) The Federal-Aid Highway Act of 1962, as amended (76 Stat. 1145, 23 U.S.C. 307 note);
(6) The Federal-Aid Highway Act of 1954, as amended (68 Stat. 70);
(7) The Act of September 26, 1961, as amended (75 Stat. 670);
(8) The Highway Revenue Act of 1956, as amended (70 Stat. 387, 23 U.S.C. 120 note);
(9) The Highway Beautification Act of 1965, as amended (79 Stat. 1028, 23 U.S.C. 131 et seq., notes);
(10) The Alaska Omnibus Act, as amended (73 Stat. 141, 48 U.S.C. 21, note prec.);
(11) The Joint Resolution of August 28, 1965, as amended (79 Stat. 578, 23 U.S.C. 101 et seq., notes);
(12) Section 502(c) of the General Bridge Act of 1946, as amended (60 Stat. 847, 33 U.S.C. 525(c));
(13) The Act of April 27, 1962 (76 Stat. 59); and
(14) Reorganization Plan No. 7 of 1949 (63 Stat. 1070).

* * * * *

(n) Carry out the Highway Safety Act of 1966, as amended (80 Stat. 731) (including chapter 4 of title 23, United States Code) for highway safety programs, research, and development relating to highway design, construction, and maintenance, traffic control devices, identification and surveillance of accident locations, and highway-related aspects of pedestrian and bicycle safety.

2. In § 1.50, new paragraphs (f) and (g) are added, to read as follows:

§ 1.50 Delegations to Urban Mass Transportation Administrator.

* * * * *

(f) The following sections of title 23, United States Code:
(1) 103 as it involves mass transportation projects authorized by subsection (e)(4);
(2) 104(f)(4), 105(d), 106(b) (as it involves the Federal-aid urban system), 117(c), 134(a) and 150 with the concurrence of the Federal Highway Administrator;
(3) 101(b), (c), (d), and (e); 105(a) and (g); 106(a), (c), and (d); 108; 109 (a), (g) and (h); 110; 112; 113; 114; 116 (a) and (c); 117(a), (b), and (d); 121; 122; 124; 128; 140(a); and 145 as they involve mass transportation projects authorized by sections 103(e)(4), 142(a)(2), or 142(c); and
(4) 142 as it involves mass transportation projects.

(g) Sections 140, 146, 164, and 165 of the Federal-Aid Highway Act of 1973, Public Law 93-87, Title I (87 Stat. 250).

3. In § 1.51, paragraph (b) is revised and a new paragraph (g) is added, to read as follows:

§ 1.51 Delegations to National Highway Traffic Safety Administrator.

* * * * *

(b) Carry out the Highway Safety Act of 1966, as amended (80 Stat. 731) (including chapter 4 of title 23, United States Code), except for highway safety programs, research, and development relating to highway design, construction, and maintenance, traffic-control devices, identification and surveillance of accident locations, and highway-related aspects of pedestrian and bicycle safety.

* * * * *

(g) Carry out the functions vested in the Secretary by section 211(c) of the Highway Safety Act of 1973, Pub. L. 93-87, title II (83 Stat. 282).

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

Effective date. This amendment is effective November 14, 1973.

Issued in Washington, D.C., on November 8, 1973.

CLAUDE S. BRINEGAR,
Secretary of Transportation.

[FR Doc.73-24267 Filed 11-13-73;8:45 am]

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