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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.

(Continued inside)

PART II:

April 29, 1974—Pages 14931–15014

REMINDERS

NOTE: There were no items published after October 1, 1972, that are eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

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List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

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, 1974, and specifies how they are affected.

Rules and Regulations

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Treasury Department

Section 213.3105 is amended to show that not to exceed 7 positions of Customs Patrol Officers in the Papago Indian Agency in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood are excepted under Schedule A.

Effective on April 29, 1974 § 213.3105 (b) (9) is added as set out below:

§ 213.3105 **Treasury Department.**

* * * * *

(b) *Bureau of Customs.* * * *

(9) Not to exceed seven positions of Customs Patrol Officers in the Papago Indian Agency in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.

* * * * *

(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.74-9747 Filed 4-26-74;8:45 am]

PART 213—EXCEPTED SERVICE

Executive Office of the President, et al.

Subpart C of Part 213 is amended to show that under the provisions of § 213.-3101b, 26 positions are no longer excepted under Schedule C.

Effective on April 29, 1974, Subpart C of Part 213 is amended as set out below.

§ 213.3303 **Executive Office of the President.**

* * * * *

(j) *Special Action Office for Drug Abuse Prevention* * * *

(3) One Confidential Assistant to the Director.

* * * * *

§ 213.3304 **Department of State.**

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

(14) [Revoked]

* * * * *

(h) *Bureau of International Organization Affairs.* (1) [Revoked]

* * * * *

§ 213.3306 **Department of Defense.**

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

(3) One Chauffeur to the Secretary and one Chauffeur to the Deputy Secretary.

* * * * *

§ 213.3312 **Department of the Interior.**

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

(33) [Revoked]

* * * * *

(39) [Revoked]

* * * * *

§ 213.3313 **Department of Agriculture.**

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

(27) [Revoked]

(28) [Revoked]

* * * * *

(35) [Revoked]

* * * * *

§ 213.3314 **Department of Commerce.**

* * * * *

(m) *Office of the Assistant Secretary of Domestic and International Business.* * * *

(6) [Revoked]

* * * * *

§ 213.3318 **Environmental Protection**

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

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

(4) Two Staff Assistants to the Administrator.

* * * * *

(7) [Revoked]

* * * * *

(i) *Office of the Assistant Administrator for Hazardous Materials Control.* (1) [Revoked]

* * * * *

§ 213.3373 **Office of Economic Opportunity.**

* * * * *

(c) *Office of the Assistant Director for Operations.* * * *

(3) [Revoked]

* * * * *

§ 213.3384 **Department of Housing and Urban Development.**

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

(9) [Revoked]

* * * * *

(12) One Special Assistant to the Secretary.

* * * * *

(16) [Revoked]

* * * * *

(27) Nine Assistants for Legislative Affairs.

* * * * *

(31) One Special Assistant to the Secretary.

* * * * *

(33) [Revoked]

* * * * *

(51) [Revoked]

* * * * *

(c) *Office of Assistant Secretary for Housing Management.* * * *

(5) Three Staff Assistants to the Assistant Secretary.

* * * * *

(g) *Office of the Assistant Secretary for Research and Technology.* (1) [Revoked]

(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.74-9748 Filed 4-26-74;8:45 am]

Title 7—Agriculture

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

[Valencia Orange Reg. 458, Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Minimum Size Regulation

This amendment extends the current minimum size requirement of 2.20 inches in diameter for the period May 4, 1974, through January 15, 1975, applicable to the handling of Valencia oranges grown in the production area of California and Arizona. Shipments of California-Arizona Valencia oranges are currently regulated by size through May 3, 1974, pursuant to Orange Regulation 458. The regulatory requirements for California-Arizona Valencia oranges specified herein are the same as those published in the FEDERAL REGISTER on April 8, 1974, under notice of proposed rulemaking.

Notice was published in the FEDERAL REGISTER on April 8, 1974 (39 FR 12762), that consideration was being given to a continuation of the size regulation for Valencia oranges grown in Arizona and designated part of California, pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908) regulating the handling of Valenca oranges grown in Arizona and designated part of California. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposed amendment was recommended by the Valencia Orange Administrative Committee, established under said

amended marketing agreement and order as the agency to administer the terms and provisions thereof. The notice provided that all written data, views, or arguments in connection with the proposed amendment be submitted by April 17, 1974. None were received.

The minimum size requirement specified herein reflects the Department's appraisal of the crop and current and prospective marketing conditions. The 1973–74 season crop of Valencia oranges is currently estimated at 49,000 carlots. The demand in regulated market channels will require about 43 percent of this volume, and the remaining 57 percent will be available for utilization in export, processing and other outlets. The volume and size composition of the crop are such that ample supplies of the more desirable sizes are available to satisfy the demand in regulated channels. Equivalent fresh on-tree returns for California-Arizona Valencia oranges averaged $1.50 per carton for the season through March 1974 or 66 percent of the equivalent parity price. The regulation herein specified is designed to permit shipment of ample supplies of fruit of the more desirable sizes in the interest of both growers and consumers. The action is necessary to maintain orderly marketing conditions, provide consumer satisfaction and guard against the shipment of undesirable sizes of Valencia oranges which tend to weaken the market for such fruit.

After consideration of all relevant matter presented, including the proposal set forth in the aforesaid notice and other available information, it is hereby found that the limitation of shipments of Valencia oranges, as hereinafter set forth, is in accordance with said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for making this amendment effective at the time hereinafter set forth and for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice of proposed rulemaking concerning this amendment was published in the FEDERAL REGISTER on April 8, 1974 (39 FR 12762), and no objection to it was received; (2) the regulatory provisions are the same as those contained in said notice; (3) the recommendation and supporting information for regulation of Valencia oranges were submitted to the Department after an open meeting of the committee on March 19, 1974, which was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; (4) information concerning such provisions and effective time has been disseminated among handlers of such oranges; and (5) compliance with the regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

Order. In § 908.758 (Valencia Orange Regulation 458; 39 FR 11979) the provisions of paragraph (a) are amended to read as follows:

§ 908.758 Valencia Orange Regulation 458.

(a) During the period May 4, 1974, through January 15, 1975, no handler shall handle any Valencia oranges grown in the production area which are of a size smaller than 2.20 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided,* That not to exceed 5 percent, by count, of the Valencia oranges contained in any type of container may measure smaller than 2.20 inches in diameter.

* * * * *

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

Dated, April 23, 1974, to become effective May 4, 1974.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74–9693 Filed 4–26–74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 74–NE–10, Amdt. 39–1826]

PART 39—AIRWORTHINESS DIRECTIVES

Consolidated Aeronautics LA–4–200 Airplanes

There have been reports of contamination of the fuel injector in the Consolidated Aeronautics LA–4–200 airplanes which have resulted in engine stoppage. The source of this contamination is a sealant material used in those fuel pressure sense line restrictor fittings, P/N 2–6750–41, which have a flush insert. Since this contamination is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require inspection of the restrictor fittings to identify those which have a flush insert, replacement of those fittings and disassembly and cleaning of the fuel injectors themselves to remove any contamination which may have already occurred.

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

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

CONSOLIDATED AERONAUTICS. Applies to all Model LA–4–200 airplanes through Serial Number 601.

Compliance required, unless already accomplished, within the next twenty-five (25) hours time in service after the effective date of this AD. To preclude the possibility of engine stoppage resulting from contamination in the fuel injector, accomplish the following:

1. Inspect the restrictor fitting, P/N 2–6750–41, to determine if it has a flush or recessed insert in accordance with Lake Aircraft, Division of Consolidated Aeronautics, Service Bulletin No. B51, or later FAA approved revision.

2. If the restrictor fitting has a recessed insert, no further action is required.

3. If the restrictor fitting has a flush insert, accomplish the following:

a. Disassemble and clean the areas of the fuel injector specified in Lake Aircraft, Division of Consolidated Aeronautics, Service Bulletin No. B51, or later FAA approved revision or by FAA approved equivalent method.

b. Remove the restrictor fitting and replace with P/N 2–6750–83, or later FAA approved equivalent.

4. Equivalent methods of compliance must be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, New England Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Chief Engineer, Lake Aircraft, Division of Consolidated Aeronautics, Inc., P.O. Box 312, Sanford, Maine 04073. These documents may also be examined at the Office of the Regional Counsel, New England Region, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803 and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at the New England Regional Office in Burlington, Massachusetts.

This amendment becomes effective May 10, 1974.

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

Issued in Burlington, Mass., on April 19, 1974.

Note: The incorporation by reference provisions in this document was approved by the Director of the Office of the Federal Register on June 19, 1967.

FERRIS J. HOWLAND,
Director, New England Region.

[FR Doc.74–9671 Filed 4–26–74;8:45 am]

[Docket No. 74–EA–19, Amdt. 39–1828]

PART 39—AIRWORTHINESS DIRECTIVES

Grumman Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to amend AD 73–19–10 applicable to Grumman G–164 type aircraft (Ag-Cat).

Subsequent to the effectivity of AD 73–19–10 it was determined that, because of the presence of equivalent approved bolts, all bolts used in attaching the horn should be inspected rather than a specific AN bolt.

Since this amendment carries the same critical air safety aspect as the original rule, notice and public procedure hereon are impractical and cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 FR 13697) § 39.13 of Part 39 of the Federal Aviation Regulations is amended so as to amend AD 73–19–10 as follows:

1. In paragraph 1. delete "AN4–11A" and "of 50–70 in.-lb." and insert after the word "standard" the parenthetical clause (ref. AC 43.13–1 Chg. 7).

2. In paragraph 4 delete "subject bolts AN 4–11A(2)" and insert in lieu thereof "bolts referenced in paragraph 3".

This amendment is effective May 6, 1974.

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

Issued in Jamaica, N.Y., on April 22, 1974.

MARTIN J. WHITE,
Acting Director,
Eastern Region.

[FR Doc.74–9672 Filed 4–26–74;8:45 am]

[Docket No. 74–EA–15, Amdt. 39–1827]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Piper PA–30 airplanes.

There have been reports of cracks being found in the aileron nose bulkhead where the aileron counterweight arm attaches and also cracks being found in the spar and reinforcing plates. Since this deficiency can exist or occur in airplanes of the same type design, an airworthiness directive is being issued which will require a repetitive inspection of the subject areas and replacement of parts when necessary.

The foregoing situation has an effect on the airworthiness of the airplane and therefore notice and public procedure hereon are impractical and the amendment may be made effective in less than 30 days.

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

PIPER. Applies to Model PA–30 aircraft Serial Nos. 30–1 through 30–1613 certificated in all categories except aircraft incorporating Piper Kit Part Number 757 162. Compliance required as indicated.

To prevent hazards in flight associated with cracking of the aileron nose bulkheads P/N 20234–31 to which the aileron balance weight arm is attached, accomplish the following:

1. Within the next 50 hours in service from the effective date of this AD unless already accomplished within the past 50 hours in service and at intervals not to exceed 100 hours in service from the last inspection, inspect in accordance with paragraph 2.

2. Remove aileron and visually inspect with five times power minimum magnification the two aileron nose bulkheads P/N 20234–31 for cracks where the aileron balance weight arm attaches. If cracks are found, remove the bulkhead and visually inspect with five times power minimum magnification the spar P/N 20213–00 and the aileron reinforcement plates P/N 20234–14 and –15 for cracks. If cracks are found on the latter inspection, prior to further flight, replace the spar and reinforcement plates with a like part number or equivalent and replace the aileron nose bulkheads with a like part number or P/N 20234–30 or equivalent. Equivalent parts must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

3. Upon incorporation of aileron nose bulkheads P/N 20234–30 or equivalent, compliance with the requirements of this AD may be dispensed with.

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

This amendment is effective May 6, 1974.

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

Issued in Jamaica, N.Y., on April 22, 1974.

MARTIN J. WHITE,
Acting Director,
Eastern Region.

[FR Doc.74–9673 Filed 4–26–74;8:45 am]

[Airspace Docket No. 74–RM–4]

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

Alteration of Transition Area

On March 25, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 11096) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the transition area at Helena, Mont.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 G.m.t., July 18, 1974.

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

Issued in Aurora, Colo., on April 22, 1974.

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

In § 71.181 (39 FR 440) amend the 1200-foot transiton area at Helena, Mont., to read:

* * *; and that airspace extending upward from 1200 feet above the surface within a 24-mile radius of the Helena VORTAC, extending from the Helena VORTAC 272° radial clockwise to th Helena VORTAC 191° radial; within 6 miles south and 9 miles north of the Helena VORTAC 272° radial, extending from the VORTAC to 45 miles west of the VORTAC; within 5 miles east and 9 miles west of the Helena VORTAC 023° radial, extending from the 24-mile radius area to 36 miles northeast of the VORTAC; and within 6 miles south and 9.5 miles north of the Helena VORTAC 102° radial, extending from the 24-miles radius area to 28.5 miles east of the VORTAC.

[FR Doc.74–9675 Filed 4–26–74;8:45 am]

[Airspace Docket No. 74–SO–43]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Statesville, N.C., transition area.

The Statesville transition area is described in § 71.181 (39 FR 440). In the description, an extension is predicated on the Hickory VOR 114° radial which was designated to provide controlled airspace protection for IFR aircraft executing the VOR–1 Standard Instrument Approach Procedure to Statesville Municipal Airport. Effective May 16, 1974, this approach procedure will be cancelled and this extension will no longer be required. It is necessary to alter the description to reflect this change. Since this amendment is less restrictive in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., May 16, 1974, as hereinafter set forth.

In § 71.181 (39 FR 440), the Statesville, N.C., transition area is amended as follows: All after "latitude 35°45'36" N.," is deleted and "longitude 80°57'15" W.)" is substituted therefor.

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

Issued in East Point, Ga., on April 19, 1974.

DUANE W. FREER,
Acting Director,
Southern Region.

[FR Doc.74–9676 Filed 4–26–74;8:45 am]

[Airspace Docket No. 74–SO–33]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alterations of Jet Routes

The purpose of this amendment to Part 75 of the Federal Aviation Regulations is to alter the description of several jet routes in the Jacksonville, Fla.,

area. These alterations will resolve a route ambiguity problem that exists between J–77 and J–79 which cross each other several times between Wilmington, N.C., and Biscayne Bay, Fla., thereby creating occasional doubt as to where transition will be made from one route to the other.

Since this amendment does not require designating additional controlled airspace, but merely renumbers existing route segments, it is a minor editorial change on which the public would have no particular reason to comment. Therefore, notice and public procedure thereon are unnecessary. However, since sufficient time must be allowed to make appropriate changes on aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., July 18, 1974, as hereinafter set forth.

Section 75.100 (39 FR 699).

1. J–45 is revised to read as follows:

Jet Route No. 45 From Biscayne Bay, Fla., via INT Biscayne Bay 021° and Vero Beach, Fla., 143° radials; Vero Beach; Ormond Beach, Fla.; Jacksonville, Fla.; Alma, Ga.; Atlanta, Ga.; Nashville, Tenn.; St. Louis, Mo.; Des Moines, Iowa; Sioux Falls, S. Dak.; to Aberdeen, S. Dak.

2. J–121 is revised to read as follows:

JET ROUTE No. 121

From Jacksonville, Fla.; to Charleston, S.C. From Norfolk, Va., via INT Norfolk 023° and Sea Isle, N.J., 212° radials; Sea Isle; INT Sea Isle 050° and Hampton, N.Y. 223° radials; Hampton; Providence, R. I.; to INT Providence 045° and Boston, Mass., 066° radials.

3. J–77 is revised to read as follows:

JET ROUTE No. 77

From Wilmington, N.C., via Gordonsville, Va.; Westminster, Md.; Huguenot, N.Y.; to Boston, Mass.

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

Issued in Washington, D.C., on April 23, 1974.

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

[FR Doc.74–9674 Filed 4–26–74;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C–2501]

PART 13—PROHIBITED TRADE PRACTICES

Bi-Rite, Inc. and Bargain Barn

Subpart—Advertising falsely or misleadingly: § 13.10 *Advertising falsely or misleadingly.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Bi-Rite, Inc. trading as Bargain Barn, Irving, Texas, Docket C–2501, Mar. 20, 1974]

In the Matter of Bi-Rite, Inc., a Corporation, Trading and Doing Business as Bargain Barn

Consent order requiring an Irving, Texas, seller and distributor of beef and other meat products, among other things to cease advertising cheese, fowl or fish as meat or meat products.

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

It is ordered, That respondent Bi-Rite, Inc., a corporation, its successors and assigns, and its officers, and respondent's agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertisement, offering for sale, sale, or distribution of freezer meats or any other product in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Advertising cheese, fowl, or fish as meat or meat products.

It is further ordered, That in the event that respondent merges with another corporation or transfers all or a substantial part of its business or assets to any other corporation or to any other person, respondent shall require said successor or transferee to file promptly with the Commission a written agreement to be bound by the terms of this order; *Provided,* That if respondent wishes to present to the Commission any reasons why said order should not apply in its present form to said successor or transferee, it shall submit to the Commission a written statement setting forth said reasons prior to the consummation of said succession or transfer.

It is further ordered, That respondent shall forthwith distribute a copy of this order to each officer of the corporation, member of the board, organization manager, and each employee, now and in the future, involved in the writing or placement of advertising or sales.

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

Issued: March 20, 1974.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.74–9725 Filed 4–26–74;8:45 am]

[Docket No. C–2502]

PART 13—PROHIBITED TRADE PRACTICES

Electronic Centers and Harvey Zinn

Subpart—Advertising falsely or misleadingly: § 13.155 *Prices;* 13.155–35 Discount savings; 13.155–40 Exaggerated as regular and customary; 13.155–100 Usual as reduced, special, etc. Subpart—Failing to maintain records: § 13.1051 *Failing to maintain records;* 13.1051–20 Adequate; Subpart—Misrepresenting oneself and Goods—Prices: § 13.1805 *Exaggerated as regular and customary;* § 13.1820 *Retail as cost, etc., or discounted;* § 13.1825 *Usual as reduced or to be increased.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Electronic Centers, et al., Houston, Texas, Docket C–2502, Mar. 20, 1974]

In the Matter of Electronic Centers, a Corporation, and Harvey Zinn, Individually and as an Officer of Said Corporation.

Consent order requiring a Houston, Texas seller of electronic equipment normally found in the store of a retail seller of music and voice amplification equipment, among other things to cease misrepresenting the usual or regular selling price of merchandise; misrepresenting the amount of savings available to purchasers; and failing to maintain adequate records.

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

It is ordered, That respondent Electronic Centers, a corporation, its successors and assigns, and its officers, and Harvey Zinn, individually and as an officer, and respondents' agents, representatives and employees directly or through any corporation, subsidiary, division or other device, in connection with advertising, offering for sale and sale of electronic equipment and other products in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "Sale", or any other word or words of similar import or meaning unless the price of such merchandise being offered for sale constitutes a reduction, in an amount not so insignificant as to be meaningless, from the actual bona fide price at which such merchandise was sold or offered for sale to the public on a regular basis by respondents for a reasonably substantial period of time in the recent, regular course of their business.

2. Using the words "Regular", "Reg.", or any other words of similar import or meaning to refer to any price amount which is in excess of the price at which such merchandise has a reasonably substantial period of time in the recent, regular course of their business, or misrepresenting, in any manner the usual or regular selling price of respondents' merchandise.

3. Representing, directly or by implication, that by purchasing any of said merchandise, customers are afforded savings amounting to the difference between respondents' stated price and respondents' former price unless such merchandise has been sold or offered for sale in good faith at the former price by respondents for a reasonably substantial period of time in the recent, regular course of their business.

4. Misrepresenting, directly or by implication, the amount of savings available to purchasers or prospective purchasers of respondents' merchandise at retail.

5. Failing to maintain adequate records (a) which disclose the facts upon which any savings claims, including former pricing claims, and similar representations of the type described in paragraphs 1–4 of this order are based, and (b) from which the validity of any savings claims, including former pricing claims and similar representations of the type described in paragraphs 1–4 of this order can be determined.

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

It is further ordered, That in the event that respondent merges with another corporation or transfers all or a substantial part of its business or assets to any other corporation or to any other person, respondent shall require said successor or transferee to file promptly with the Commission a written agreement to be bound by the terms of this order; *Provided,* That if respondent wishes to present to the Commission any reasons why said order should not apply in its present form to said successor or transferee, it shall submit to the Commission a written statement setting forth said reasons prior to the consummation of said succession or transfer.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each person engaged in the writing or placing of advertising for Electronic Centers.

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 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: March 20, 1974.

By the Commission.

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

[FR Doc.74-9726 Filed 4-26-74;8:45 am]

[Docket No. C-2500]

PART 13—PROHIBITED TRADE PRACTICES

M.T.I. Business Schools of Sacramento, Inc. and Arnold Zimmerman

Subpart—Advertising falsely or misleadingly: § 13.115 *Jobs and employment services;* § 13.143 Opportunities; § 13.205 *Scientific or other relevant facts.* Subpart—failing to maintain records: § 13.1051 *Failing to maintain records;* 13.1051–10 Accurate. Subpart—Misrepresenting oneself and goods—Goods: § 13.1670 *Jobs and employment;* § 13.1697 *Opportunities in product or service;* § 13.1740 *Scientific or other relevant facts.* Subpart—Offering unfair, improper and deceptive inducement to purchase or deal: § 13.1935 *Earnings and profits;* § 13.2015 *Opportunities in product or service;* § 13.2063 *Scientific or other relevant facts.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, M.T.I. Business Schools of Sacramento, Inc., et al., Sacramento, Calif., Docket C-2500, Mar. 20, 1974]

In the Matter of M.T.I. Business Schools of Sacramento, Inc., a Corporation, and Arnold Zimmerman, Individually and as an Officer of Said Corporation.

Consent order requiring a Sacramento, Calif., business school, among other things to cease misrepresenting the opportunities available to individuals trained in particular job fields such as cashier or checkstand operations, data processing or computer programming; misrepresenting the salaries available in such fields; and failing to maintain accurate records to substantiate such claims.

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

It is ordered, That respondent M.T.I. Business Schools of Sacramento, Inc., a corporation, its successors and assigns, and its officers, agents, representatives, employees and independent contractors, directly or through any corporation, subsidiary, division, franchisee or other device, and respondent Arnold Zimmerman, individually and as an officer of said corporate respondent, in connection with the creating, advertising, promoting, offering for sale, sale or conducting of courses of study, training or instruction in any field in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, orally, in writing or in any other manner, directly or by implication, that:

a. There is an urgent need or demand, or a need or demand of any size, proportion or magnitude, for trained people in the fields of cashier or checkstand operations, data processing or computer programming, or otherwise representing, orally or in writing, that opportunities of any size, figure or number, are available to such persons, or to any person completing any of the courses offered by the respondents in the fields of cashier or checkstand operations, data processing or computer programming, or any other course in any field, unless respondents in each and every instance have in good faith conducted or otherwise secured a statistically valid survey which establishes the validity of any such representation at all times when, and in all locations with respect to which, the representation is made.

b. Any amount of salary or other remuneration will or may be earned by any person completing any course offered by the respondents, unless the respondents in each and every instance have in good faith conducted or otherwise secured a statistically valid survey which establishes the validity of any such claim at all times when, and in all locations with respect to which, the representation is made.

2. Failing to keep accurate records which may be inspected by Commission staff members upon reasonable notice:

a. Which disclose the facts upon which any claims or other representations of the type described in Paragraph 1 of this order are based; and

b. From which the validity of claims, or other representations of the type described in Paragraph 1 of this order can be determined.

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 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 individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his 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: March 20, 1974.

By the Commission.

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

[FR Doc.74-9724 Filed 4-26-74;8:45 am]

Title 20—Employees' Benefits

CHAPTER VI—EMPLOYMENT STANDARDS ADMINISTRATION, DEPARTMENT OF LABOR

SUBCHAPTER A—LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT AND RELATED STATUTES

PART 703—INSURANCE REGULATIONS

Clarification of Policy

Pursuant to the authority contained in sections 32 and 39 of the Longshoremen's and Harbor Workers' Compensation Act, 33 U.S.C. 932 and 939, and as delegated to me by Secretary of Labor's Order No. 13-71, 36 FR 8755, I am hereby amending Part 703 by adding a new § 703.121 to those provisions governing the authorization of insurance carriers, and I am amending § 703.301 which enumerates the conditions precedent to authorization of an employer to become a self-insurer.

It has always been the official policy of the Office of Workmen's Compensation Programs and its predecessor agencies (see § 701.203) that an employer operating in any compensation district (see § 702.101) could not have his operations in that district insured by more than one insurance carrier, and that self-insured employers could not also insure the same risk with a private carrier. Existing provisions of these regulations, especially § 703.501, were deemed adequate to cover this matter. However, in view of recent inquiries, I deem it advisable to embody our longstanding policy in clear terms in these regulations.

The provisions of 5 U.S.C. 553 for notice, public procedure, and delayed effective date are not applicable to the interpretation rules, general statements of policy and rules of agency organizations, practice and procedure set forth in this amendment. Further, as stated above, this amendment merely states in detail what has long been required in practice. Under these circumstances, I find that notice of proposed rule making and opportunity for public comments thereon would be impracticable and contrary to the public interest. I further find that delay in the effective date of this amendment, for these same reasons, is also impracticable and contrary to the public interest. Accordingly, these regulations shall become effective on April 29, 1974.

However, notwithstanding this promulgation of rules in final form, it is the policy of this Department to obtain and consider comments, arguments, and suggestions from all interested persons. Accordingly, the Employment Standards Administration will receive written comments, data, and arguments until June 1, 1974, at which time these comments will be considered as if this document were a proposal. Until this document is further amended, these provisions shall remain in full force and effect.

Interested persons are invited to submit such data, views, or arguments to the Office of Workmen's Compensation Programs, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20211, on or before June 1, 1974.

Part 703 of Title 20, Code of Federal Regulations, is amended as follows:

1. A new § 703.121 is added and reads as follows:

§ 703.121 Multiple policies covering the same employer in the same compensation district prohibited; action upon receipt of a second report.

An employer operating within any compensation district shall have such operations in that district insured by not more than one insurance carrier. Accordingly, where a report provided for by § 703.116 is received, and where reports on file show that a named employer is insured by another insurance carrier under a policy with an unexpired term, the deputy commissioner shall inform the employer of the pre-existing coverage and of OWCP's prohibition against multiple policies.

2. Section 703.301 is revised in text to read as follows:

§ 703.301 Employers who may be authorized as self-insurers.

The Office will consider for the granting of authority to secure by self-insurance the payment of compensation under the Longshoremen's and Harbor Workers' Compensation Act, or its extensions, any employer who, pursuant to the regulations in this part, furnishes to the Office satisfactory proof of such employer's ability to pay compensation directly, and who agrees to immediately cancel any existing policy as of the time of the OWCP's approval of the employer to be self-insured, or who does not become otherwise insured under this Act. The succeeding regulations relating to self-insurers require the deposit of security in the form either of an indemnity bond or negotiable securities (at the option of the employer) of a kind and in an amount determined by the Office, and prescribe the conditions under which such deposit shall be made. The term "self-insurer" as used in these regulations means any employer securing compensation in accordance with the provisions of 33 U.S.C. 932(a)(2) and with these regulations.

Signed at Washington, D.C., this 23d day of April 1974.

BERNARD E. DELURY, *Assistant Secretary for Employment Standards.*

[FR Doc.74-9730 Filed 4-26-74;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER C—DRUGS

PART 135a—NEW ANIMAL DRUGS FOR OPHTHALMIC AND TOPICAL USE

Cuprimyxin Cream

The Commissioner of Food and Drugs has evaluated a new animal drug application (93-029V) filed by Hoffmann-La Roche Inc., Nutley, N.J. 07110, proposing the safe and effective use of cuprimyxin 0.5 percent cream for dermal and otic use in treating dogs and cats. The application is approved.

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

§ 135a.56 Cuprimyxin cream, veterinary.

(a) *Specifications.* The drug contains 0.5 percent cuprimyxin (6-methoxy-1-phenazinol 5, 10-dioxide, cupric complex) in an aqueous cream base.

(b) *Sponsor.* See code No. 020 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) Cuprimyxin is a broad spectrum antibacterial and antifungal cream for the topical treatment of superficial infections in dogs and cats caused by bacteria, dermatophytes (*Trichophyton spp.; Microsporum spp.*) and yeast (*Candida albicans*) affecting skin, hair, and external mucosae.

(2) The cream is applied twice daily to affected areas by rubbing into lesions. Treatment should be continued for a few days after clinical recovery to avoid possible relapses.

(3) After application to cutaneous areas, a change in color from dark green to pink is due to the liberation of free myxin from its copper complex.

(4) If no response is seen within seven days, diagnosis and therapy should be reevaluated. If any adverse local reaction is observed after topical application, discontinue treatment.

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

Effective date. This order shall be effective on April 29, 1974.

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

Dated: April 23, 1974.

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

[FR Doc.74-9698 Filed 4-26-74;8:45 am]

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Oxytetracycline Hydrochloride with Lidocaine Injection

The Commissioner of Food and Drugs has evaluated a supplemental new ani-

mal drug application (13–146V) filed by Pfizer, Inc., 235 E. 42nd St,, New York, NY 10017, proposing revised labeling for the safe and effective use of oxytetracycline hydrochloride with lidocaine in the treatment of diseases of dogs caused by pathogens sensitive to oxytetracycline hydrochloride. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135b is amended in § 135b.93 by revising paragraph (b) to read as follows:

§ 135b.93 Oxytetracycline hydrochloride with lidocaine injection.

* * * * *

(b) *Sponsor.* See code Nos. 030 and 071 and § 135.501(c) of this chapter.

* * * * *

Effective date. This order shall be effective on April 29, 1974.

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

Dated: April 23, 1974.

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

[FR Doc.74-9697 Filed 4-26-74;8:45 am]

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

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

Promazine Hydrochloride

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (12–656V) filed by Fort Dodge Laboratories, Fort Dodge, IA 50501, proposing revised conditions of use for promazine hydrochloride as an animal tranquilizer. The supplemental application is approved and an appropriate amendment to 21 CFR 135c.29 is being made.

A notice of withdrawal of approval of new animal drug application No. 12–644V held by Wyeth Laboratories, Inc., P.O. Box 8299, Philadelphia, PA 19101, for the drug Sparine Pellets was published in the FEDERAL REGISTER of January 29, 1972 (37 FR 1501). At the time of withdrawal of approval of said application, no amendment to delete the firm's approval from 21 CFR 135c.29 was made; therefore, such amendment is being made in this order. In addition, the zero tolerance which was established on the basis of said application is revoked.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135c and 135g are amended as follows:

1. By revising § 135c.29 (c), (d), and (e) to read as follows:

§ 135c.29 Promazine hydrochloride.

* * * * *

(c) *Sponsor.* See code No. 017 in § 135.501(c) of this chapter.

(d) [Reserved]

(e) *Conditions of use.* (1) The drug is used for quieting excitable, unruly, or intractable horses. It is administered at a dosage level of 0.45 to 0.9 milligrams of promazine hydrochloride per pound of body weight mixed with an amount of feed that will be readily consumed.

(2) Do not use in horses intended for food.

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

§ 135g.16 [Reserved]

2. By revoking § 135g.16 *Promazine hydrochloride* and reserving it for future use.

Effective date. This order shall be effective on April 29, 1974.

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

Dated: April 23, 1974.

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

[FR Doc.74-9696 Filed 4-26-74;8:45 am]

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 4—LABOR STANDARDS FOR FEDERAL SERVICE CONTRACTS

Minimum Wage Increases

The Fair Labor Standards Amendments of 1974 (Pub. L. 93–259, 93rd Congress, April 8, 1974, 88 Stat. 55) amended section 6(a)(1) of the Fair Labor Standards Act of 1938 (FLSA) to require, effective May 1, 1974, the payment of a minimum wage of not less than $2.00 per hour. This minimum, by these amendments, will be increased to not less than $2.10 an hour during the year beginning January 1, 1975, and to not less than $2.30 an hour after December 31, 1975. In addition, section 6(b) of the FLSA was amended to raise the rates for nonagricultural employees first covered in the 1966 and 1974 amendments to the FLSA to $1.90 per hour, commencing May 1, 1974, $2.00 per hour beginning January 1, 1975, $2.20 per hour beginning January 1, 1976, and $2.30 per hour after December 31, 1976. Section 2(b)(1) of the McNamara-O'Hara Service Contract Act of 1965, as amended (41 U.S.C. 351 et seq.) provides, regardless of contract amount, that no contractor or subcontractor performing work under any Federal contract, the principal purpose of which is to furnish services through the use of service employees, shall pay any of its employees engaged in such work less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended. An exception making the minimum rate specified in section 6(b) of the FLSA applicable to certain contracts is provided in section 6(e)(2) of the Fair Labor Standards Act and reflected in 29 CFR 4.160. By reason of this exception, the enactment of Pub. L. 93–959 necessitates an amendment of such section. Further, with the increase in the section 6(a)(1) rates, it is necessary to amend 29 CFR 4.6 and 4.167, relating to tipped employees.

Inasmuch as these changes conform the Service Contract Act regulations of the Department of Labor to the changes made by the Fair Labor Standards Amendments of 1974, no notice of proposed rulemaking, nor delay in the effective date is required. Accordingly, these regulations shall be effective on May 1, 1974.

29 CFR Part 4 is hereby amended as stated below:

1. Section 4.2 is revised by deleting at the end thereof the parenthetical phrase reading "($1.60 per hour)" and substituting in lieu thereof:

§ 4.2 Payment of minimum wage specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 under all service contracts.

* * * ($2.00 per hour effective May 1, 1974, $2.10 per hour effective January 1, 1975, and $2.30 per hour effective January 1, 1976).

2. Section 4.6(n)(2) is amended by revising the proviso clause at the end of the paragraph to read as follows:

§ 4.6 Labor standards clauses for Federal service contracts exceeding $2,500.

* * * * *

(n) * * *

(2) * * * *Provided, however,* That the amount of such credit may not exceed $1.00 per hour, effective May 1, 1974, $1.05 per hour effective January 1, 1975, and $1.15 per hour after December 31, 1975.

§ 4.53 [Amended]

3. Section 4.53(a) is revised by deleting the $1.90 figure which appears twice in the paragraph and substituting therefor $2.50 per hour.

4. Section 4.53(c) is revised by deleting the figure $1.60 per hour where it twice appears in the paragraph and substituting in lieu thereof $2.50 per hour, and by deleting the 8 cents per hour at the end of the paragraph, and substituting the figure 12½ cents per hour.

5. Section 4.53(e) is revised by deleting the $1.60 figure where it twice appears in the paragraph and substituting in lieu thereof $2.50, deleting the result of $76.80 and substituting therefor $120.00, and deleting the hourly cash equivalent figure, $.0369 and substituting in lieu thereof the figure of $.0577.

6. Section 4.159 is amended by revising the next to the last sentence to read as follows:

§ 4.159 General minimum wage.

* * * The minimum wage rate under section 6(a)(1) of the Fair Labor Standards Act is $2.00 (increased from the prior rate of $1.60) effective May 1, 1974, $2.10 effective January 1, 1975, and $2.30 an hour effective January 1, 1976. * * *

7. The last sentence of paragraph (b) of § 4.160 is revised to read as follows:

§ 4.160 Effect of section 6(c) of the Fair Labor Standards Act.

* * * * *

(b) * * * The minimum wage rates under section 6(b) of such Act, to which section 6(c) refers are: $1.90 an hour, beginning May 1, 1974; $2.00 an hour beginning January 1, 1975; $2.20 an hour, beginning January 1, 1975; $2.20 an hour, beginning January 1, 1976; and $2.30 an hour after December 31, 1976.

* * * * *

8. Section 4.167 is amended by revising the last two sentences of such section to read as follows:

§ 4.167 Wage payments—medium of payment.

* * * The general rule under that Act is that the amount paid a tipped employee by his employer is deemed to be increased on account of tips by an amount determined by the employer, not in excess of 50 percent of the minimum wage applicable under section 6 of that Act or in excess of the value of tips actually received by the employee. Thus, the tip credit taken by an employer subject to the Service Contract Act may not exceed $1.00 per hour, effective May 1, 1974, $1.05 per hour effective January 1, 1975, and $1.15 per hour after December 31, 1975.

Signed at Washington, D.C., on this 24th day of April 1974.

BERNARD E. DELURY,
Assistant Secretary for Employment Standards.

[FR Doc.74-9732 Filed 4-26-74;8:45 am]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 3—ADJUDICATION

Subpart A—Pension, Compensation and Dependency and Indemnity Compensation

PERMANENT AND TOTAL DISABILITY RATINGS

The Administrator of Veterans' Affairs amends § 3.342 of Title 38, Code of Federal Regulations, to reflect a prior amendment to § 3.321, Title 38, Code of Federal Regulations.

For a veteran under age 65 a rating of permanent and total disability is a basic requirement for entitlement to disability pension. Extra-schedular disability ratings are appropriate when the claimant for disability pension has a disability or disabilities which, under the Schedule for Rating Disabilities, are not ratable as permanent and total but which, in fact, render him unemployable. Effective February 5, 1974, § 3.321 was amended to authorize Adjudication Officers in regional offices to approve extra-schedular permanent and total disability ratings in any pension case where appropriate. Prior to this amendment Adjudication Officers were authorized to approve such ratings if the claimant was 40 years of age or older. If the claimant was under 40 years of age and the evidence of record indicated an extra-schedular rating was in order the case was submitted to Veterans Administration Central Office for approval or disapproval of the proposed rating. This change to § 3.342 deletes the qualifying language "on proper submission" which was made obsolete by the amendment of § 3.321.

A minor editorial change in § 3.342(b)(3) and another change, unrelated to the change to § 3.342(b)(5), has been made in § 3.343 solely to clarify the provisions apply equally to male and female veterans. No change in benefits or entitlement is involved.

Compliance with the provisions of § 1.12 of this chapter, as to notice of proposed regulatory development and delayed effective date, is unnecessary in this instance and would serve no useful purpose since the amendment is editorial in nature and does not effect any change in benefits.

1. In § 3.342, paragraph (b) (3) and (5) is amended to read as follows:

§ 3.342 Permanent and total disability ratings for pension purposes.

* * * * *

(b) *Criteria.* In addition to the criteria for determining total disability and permanency of total disability contained in § 3.340, the following special considerations apply in pension cases:

* * * * *

(3) Special consideration must be given the question of permanence in the case of veterans under 40 years of age. For such veterans, permanence of total disability requires a finding that the end result of treatment and adjustment to residual handicaps (rehabilitation) will be permanent disability of the required degree precluding more than marginal employment. Severe diseases and injuries, including multiple fractures or the amputation of a single extremity, should not be taken to establish permanent and total disability until it is shown that the veteran after treatment and convalescence, has been unable to secure or follow employment because of the disability and through no fault of the veteran.

* * * * *

(5) The authority granted the Administrator under 38 U.S.C. 502(a)(2) to classify as permanent and total those diseases and disorders, the nature and extent of which, in his judgment, will justify such determination, will be exercised under § 3.321(b).

2. In § 3.343, paragraph (c) is amended to read as follows: § 3.343 Continuance of total disability ratings.

* * * * *

(c) *Individual unemployability.* In reducing a rating of 100 percent service connected disability based on individual unemployability, the provisions of § 3.105(e) are for application but caution must be exercised in such a determination that actual employability is established by clear and convincing evidence. When in such a case the veteran is undergoing vocational rehabilitation, education or training, the rating will not be reduced by reason thereof unless there is received evidence of marked improvement or recovery in physical or mental conditions or of employment progress, income earned, and prospects of economic rehabilitation, which demonstrates affirmatively the veteran's capacity to pursue the vocation or occupation for which the training is intended to qualify him (or her), or unless the physical or mental demands of the course are obviously incompatible with total disability.

* * * * *

Effective date. Section 3.342(b)(5) is effective February 5, 1974.

Approved: April 16, 1974.

By direction of the Administrator.

[SEAL] R. L. ROUDEBUSH,
Deputy Administrator.

[FR Doc.74-9723 Filed 4-26-74;8:45 am]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 154—EDUCATIONAL OPPORTUNITY CENTERS

Pursuant to the authority contained in Subpart 4 of Part A of Title IV of the Higher Education Act of 1965 as amended (20 U.S.C. 1070d–1070d–1), the Commissioner of Education is issuing the following regulations governing the operation of the Educational Opportunity Centers Program. This program was authorized by the Education Amendments of 1972 (Pub. L. 92–318).

Educational Opportunity Centers will serve areas with major concentration of low-income persons by providing, in coordination with other applicable programs and services, information with respect to financial and academic assistance available for persons in such areas desiring to pursue a program of postsecondary education, assistance to such persons in applying for admission to institutions of higher education including the preparation of applications for use by admission and financial aid officers, and counseling and tutorial services and other necessary assistance to such persons while attending such institutions.

Centers will also serve as recruiting and counseling pools to coordinate resources and staff efforts of institutions of higher education and of other institutions offering programs of postsecondary education, in admitting educationally disadvantaged persons.

In view of the limited time remaining in the fiscal year for affording applicants a reasonable period in which to prepare

applications and for permitting full consideration and process of applications under this program, it has been determined that resort to proposed rulemaking procedures with respect to these regulations would be impracticable. (5 U.S.C. 553(b))

Effective date. Regulations contained herein shall become effective on May 29, 1974.

(Catalog of Federal Domestic Assistance No. 13.543, Educational Opportunity Centers)

Dated: March 28, 1974.

JOHN OTTINA,
U.S. Commissioner of Education.

Approved: April 19, 1974.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Chapter I of Title 45 of the Code of Federal Regulations is amended by adding a new Part 154, reading as follows:

Sec.
154.1 Scope and purpose.
154.2 Definitions.
154.3 Eligible applicants.
154.4 Eligible persons.
154.5 Applications.
154.6 Selection criteria.
154.7 Program activities.
154.8 Low-income families.
154.9 Project staff.
154.10 Community involvement.
154.11 Allowable costs.

AUTHORITY: Sec. 417A–417B, Title IV of the Higher Education Act of 1965 as amended by sec. 131(b), Title I, Pub. L. 92–318, 86 Stat. 258–259 (20 U.S.C. 1070d–1070d–1), unless otherwise noted.

§ 154.1 Scope and purpose.

(a) The purpose of this part is to provide Federal support of up to 75 percent for the establishment and operation of Educational Opportunity Centers to be located in areas with major concentrations of low-income persons. The Centers will serve as clearinghouses for information concerning financial and academic support available at institutions of higher education, sources of assistance in applying for admittance to such schools including the preparation of detailed documentation for use by admissions and financial aid officers, and will provide counseling, tutorial and other necessary services to students enrolled in such institutions. The Centers will also serve as recruiting and counseling pools to coordinate resources and staff efforts of institutions of higher education and of other institutions offering programs of postsecondary education, in admitting educationally disadvantaged persons.

(b) Assistance provided under this part is subject to applicable provisions of the Office of Education General Provisions contained in Subchapter A of this chapter (relating to fiscal, administrative, and other such matters).

(20 U.S.C. 1070d–1)

§ 154.2 Definitions.

As used in this part:

"Combination of institutions of higher education" means either (1) a group of institutions of higher education that have entered into a cooperative arrangement for the purpose (although not necessarily the exclusive purpose) of establishing and operating an Educational Opportunity Center, or (2) a public or private agency, designated or created by a group of institutions of higher education for that purpose (although not necessarily for that exclusive purpose).

"Institution of higher education" means an educational institution in any State which meets the requirement set forth in sections 491 or 1201(a) of the Higher Education Act of 1965, as amended.

"Physically handicapped students" means those students who, because of their physical disabilities, need specifically designed instructional materials or programs, modified physical facilities, or related services to fully participate in the experience and opportunities offered by postsecondary institutions.

"State" means in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(20 U.S.C. 1070d–1, 1088, 1141)

§ 154.3 Eligible applicants.

(a)(1) Institutions of higher education, combinations of such institutions, public and private agencies and organizations (including professional and scholarly associations), and, in exceptional cases secondary schools and secondary vocational schools are eligible to receive funds under this part to establish and operate an Educational Opportunity Center.

(2) A combination of institutions receiving a grant or contract under this part shall vest responsibility for the administration of that grant or contract in one of its participating institutions or in a public or private nonprofit agency established by the combination for that purpose.

(b) A secondary school or a secondary vocational school may receive funds under this part if that school is coordinating the recruiting and counseling efforts of institutions of higher education in the area to be served by the Center.

(20 U.S.C. 1070d–1)

§ 154.4 Eligible persons.

An Educational Opportunity Center shall make its services available to all persons desiring to pursue or pursuing a program of postsecondary education who reside within the geographic area served by the Center, except that such a person must be a citizen or national of the United States, in the United States for other than a temporary purpose with the intent to become a permanent resident thereof, or a permanent resident of the Trust Territory of the Pacific Islands.

(20 U.S.C. 1070d–1)

§ 154.5 Applications.

(a) Applications shall be submitted in such form and contain such information as the Commissioner may from time to time prescribe, but shall include the following:

(1) A description of the geographic area to be served by the Center including those demographic factors which would justify defining the area as one having a major concentration of low-income persons;

(2) An estimate of the number of students to be served;

(3) A description of the activities to be carried out by the Center;

(4) The resources available to the applicant to carry out the above activities;

(5) An estimate of the costs involved and sources of the non-Federal share;

(6) A description of the staff of the Center including their experience with and commitment to the educational goals of educationally disadvantaged students; and

(7) A description of the role and function within the Educational Opportunity Center of Talent Search and Special Services for Disadvantaged Students Programs and other similar programs and services being offered disadvantaged and physically handicapped students in the service area.

(b) Where the applicant is a combination of institutions of higher education, the applicant shall describe the role and function that each member of the combination will play in the operation of the Center, and shall include written commitments from each institution that it will perform the activities ascribed to it.

(c) The Commissioner will from time to time establish cutoff dates for the filing of applications.

(20 U.S.C. 1070d–1)

§ 154.6 Selection criteria.

(a) In addition to the criteria set forth in § 100a.26(b) of Title 45 of the Code of Federal Regulations (45 CFR 100a.26(b) published at 38 FR 30654, 30664, November 6, 1973) the Commissioner will use the following criteria in selecting applications to be funded:

(1) Need for services to enhance the accessibility of postsecondary education opportunities as indicated by:

(i) The number of low-income families in the area to be served;

(ii) Low historical rates of participation in postsecondary education in the area to be served;

(iii) The total number of students and other persons in the service area;

(iv) The proportion of the number of persons residing in the area to be serviced who would be in fact served by the Center.

(2) Appropriateness of the applicants proposed means of carrying out activities under § 154.7 in terms of meeting needs of persons in the service area;

(3) The proposed staff of the Center and the extent to which the staff has ex-

perience in dealing with low-income and physically handicapped students;

(4) The extent to which community representatives have participated in the formulation of the proposal and will participate in the operation of the Center;

(5) The extent to which the secondary schools and institutions of higher education in the area to be served by the Center will be involved in the operation of the Center;

(6) The appropriateness of the Center's relationship to the Talent Search, Upward Bound, and Special Services for the Disadvantaged Programs being carried out in the area and to such other similar programs and services including those for the physically handicapped, being carried out in that area in terms of avoiding duplication of services, failure to provide services or failure to coordinate services to individuals who participate in more than one such program;

(7) The ability of the Center to serve as a clearinghouse and as a resource for institutions of higher education in the area which admit educationally disadvantaged persons; and

(8) The cost of operating the Center.

(b) The Commissioner will, in the initial year of operation under this part, award grants and contracts to insure that major concentrations of low-income persons in both urban and rural areas, including Indian reservations, will be represented among areas to be served by Centers.

(20 U.S.C. 1070d–1)

§ 154.7 Program activities.

An Educational Opportunity Center shall:

(a) Collect and disseminate information regarding available financial and academic assistance to persons in the service area desiring to pursue a program of postsecondary education;

(b) Provide counseling on career opportunities to such persons;

(c) Assist such persons in preparing applications and other necessary materials for admission to institutions of higher education and for financial assistance at such institutions;

(d) Identify those persons in the service area with an interest in pursuing a postsecondary education and encourage them to continue or resume their educational careers;

(e) Provide counseling, tutorial and other necessary assistance to students who are resident in the area and are enrolled in institutions of higher education to permit them to continue attending such institutions;

(f) Identify and coordinate existing public and private programs for disadvantaged, including physically handicapped, students in the field of postsecondary education in the area served by the Center;

(g) Serve as a clearinghouse for information on counseling and tutoring techniques effective with students from educationally deprived backgrounds; and

(h) Serve as recruiting and counseling pools so as to coordinate resources and staff efforts of institutions of higher education and of other institutions offering programs of postsecondary education, in admitting educationally disadvantaged persons. The Center shall develop inter-institutional relationships to carry out this function.

(20 U.S.C. 1070d–1)

§ 154.8 Low-income families.

In determining whether an area to be served under this part qualifies as an area with a major concentration of low-income families the Commissioner will utilize the low-income family level set forth in the "Current Population Reports," Series P–60, Bureau of the Census, U.S. Department of Commerce.

(20 U.S.C. 1070d–1)

§ 154.9 Project staff.

(a) Each Center funded under this part shall be administered by a project director who shall serve in that position on a full time basis; and

(b) The staff members of such Centers shall, to the extent practicable, reflect the ethnic/racial composition of the area served.

(20 U.S.C. 1070d–1)

§ 154.10 Community involvement.

Representatives of the community as well as local educational agencies and institutions of higher education in the area to be served by a Center shall participate in the formulation of applications for the establishment of such Centers and shall serve in an advisory capacity in the operation of such Centers.

(20 U.S.C. 1070d–1)

§ 154.11 Allowable costs.

(a) The Commissioner will pay up to 75 percent of the costs reasonably related to the establishment and operation of Educational Opportunity Centers.

(b) The applicant's share of the cost of establishing and operating a Center shall represent an increase by such applicant in the amount of funds it previously expended for the type of activities being carried out by the Center in the fiscal year immediately preceding the fiscal year in which the grant or contract was awarded.

(c) Construction or extensive renovation of buildings, or the purchase of land are not permissible costs under this part.

(20 U.S.C. 1070d–1)

[FR Doc.74–9702 Filed 4–26–74;8:45 am]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION DEPARTMENT OF TRANSPORTATION

[Docket No. 72–22; Notice 2]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Modification of Requirements for Lighting Equipment on Mobile Structure Trailers

This notice amends Federal Motor Vehicle Safety Standard No. 108 to modify requirements for lighting equipment on mobile structure trailers.

The National Highway Traffic Safety Administration proposed on September 30, 1972 (37 FR 20573), that mobile structure trailers (commonly known as mobile homes) need be equipped only with tail lamps, stop lamps, and turn signal lamps if the manufacturer so chooses. As the agency observed in support of its proposal:

> Since January 1, 1968, mobile homes towed on their own wheels have been categorized as 'trailers' by the Federal motor vehicle safety standards, and required to conform to applicable Federal motor vehicle lighting specifications. Pursuant thereto, mobile homes in transit have been equipped with the full complement of trailer lighting equipment required by Standard No. 108: Tail lamps, stop lamps, license plate lamps, reflex reflectors, side marker lamps and reflectors, identification lamps, clearance lamps, and turn signal lamps.
>
> Because of the limited time a mobile home is on the public ways, manufacturers have been advised that compliance may be achieved by use of a lighting harness removable upon completion of transit. The Trailer Coach Association alleges that installation and removal expense of the wiring harness adds needless cost to "the only low cost housing available to the majority of people today." It has petitioned for an amendment of the lighting requirements such that reflex reflectors, license plate lamps, identification lamps, clearance lamps, and side marker lamps would not be required on mobile structure trailers "when moved under the authority of State issued permits whose regulations specifically prohibit movement during hours of darkness." * * *
>
> Available information indicates that a mobile structure trailer, defined in 49 CFR 571.3 as "a trailer that has a roof and walls, is at least 10 feet wide, and can be used off road for dwelling or commercial purposes," cannot move over the public roads of any State without a permit containing the condition that the trailer shall not be moved during hours of darkness. In many jurisdictions, movement is also prohibited during inclement weather or under other conditions of reduced visibility. The safety benefit of requiring the full complement of trailer lighting equipment appears negligible under these circumstances, and unnecessary for the safety of the motoring public.

The proposal was supported by numerous mobile home manufacturers and manufacturers associations, and opposed by a number of manufacturers and suppliers of lighting equipment, by a consumer group, one State, and other interested persons. Those who opposed the proposal argued that the presence of large mobile homes on the public highway is a traffic hazard per se, and that a full complement of lights should be required regardless of restrictions on movement. Comments were made that the existence of State laws did not necessarily preclude movement of mobile homes either at night or during periods of inclement weather. Most States, however, require special warning to motorists when mobile structure trailers exceeding a specified width and length are being transported. This warning may be in the form of flagmen, escort vehicles, flags on the towing vehicle, and "wide load" signs.

The NHTSA has concluded that motor vehicle safety does not require a full complement of lighting devices on mobile structure trailers, whose use of the roads, as a class, is infrequent, and confined to daylight hours, when identification lamps, clearance lamps, and side marker lamps are not normally in use. Accordingly, the standard is being amended to specify that the only required lighting equipment for these vehicles is stop lamps, turn signal lamps, tail lamps, and rear reflex reflectors. The NHTSA has decided to include rear reflex reflectors as required equipment to provide some measure of protection when a mobile structure trailer is parked on the road shoulder at night or during periods of reduced visibility. Mobile structure trailers in interstate transit, however, must continue to meet the requirements of the Bureau of Motor Carrier Safety (49 CFR 393.17, 393.25).

In consideration of the foregoing, 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, is revised by adding a new section S4.1.1.25 to read:

§ 571.108 Standard No. 108; Lamps, reflective devices, and associated equipment.

* * * * *

S4.1.1.25 The only required equipment for mobile structure trailers is stoplamps, taillamps, rear reflex reflectors, and turn signal lamps.

* * * * *

Effective date: May 29, 1974. Because the amendment relieves a restriction, and creates no additional burden, it is found for good cause shown that an effective date earlier than 180 days after issuance is in the public interest.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1407; delegation of authority at 49 CFR 1.51).

Issued on April 24, 1974.

JAMES B. GREGORY,
Administrator.

[FR Doc.74-9722 Filed 4-26-74;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

[S. O. 1183]

PART 1033—CAR SERVICE

Norfolk and Western Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 23d day of April, 1974.

It appearing, that the Norfolk and Western Railway Company (N&W) is unable to operate over its West Wye Switch connection with the Toledo, Peoria & Western Railroad Company (TP &W) at Forrest, Illinois, because of bridge deterioration, thereby preventing normal operation of N&W trains to and from points on its Streator, Illinois, branch; that operation by the N&W over the East Wye Switch of the TP&W, thence over certain TP&W main and secondary tracks at Forrest will enable the N&W to continue to provide service to shippers on its Streator branch; that the TP&W has consented to use by the N&W of the aforementioned trackage at Forrest, Illinois; that operation of the N&W over these tracks of the TP&W is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1183 Service Order No. 1183.

(a) *Norfolk and Western Railway Company authorized to operate over tracks of Toledo, Peoria & Western Railroad Company.* The Norfolk and Western Railway Company (N&W) be, and it is hereby, authorized to operate over the following tracks of the Toledo, Peoria & Western Railroad Company (TP&W) at Forrest, Illinois:

(1) TP&W main track between the West Wye Track Switch to a point one (1) mile east of the east switch of the Hill Track.

(2) The TP&W East Wye Track.

(3) The TP&W Hill Track.

(4) The Crossover between the TP&W main track and the TP&W Hill Track.

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

(c) *Rates applicable.* Inasmuch as this operation by the N&W over tracks of the TP&W is deemed to be due to carrier's disability, the rates applicable to traffic moved by the N&W over these tracks of the TP&W shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 11:59 p.m., April 26, 1974.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., October 31, 1974, unless otherwise modified, changed, or suspended by order of this Commission.

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

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

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-9737 Filed 4-26-74;8:45 am]

Title 50—Wildlife and Fisheries

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

PART 33—SPORT FISHING

Lake Ilo National Wildlife Refuge, N. Dak.

The following special regulation is issued and is effective on April 29, 1974.

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

NORTH DAKOTA

LAKE ILO NATIONAL WILDLIFE REFUGE

Sport fishing by rod, reel and pole, on the Lake Ilo National Wildlife Refuge, Dunn Center, North Dakota, is permitted from May 4, 1974 through September 30, 1974, inclusive, but only on the area designated by signs as open to fishing. This open area, comprising 400 acres, is delineated on maps available at refuge headquarters, 1 mile west of Dunn Center, North Dakota and from the Area Manager, Bureau of Sport Fisheries and Wildlife, Post Office Box 1897, Bismarck, North Dakota 58501. Sport Fishing shall be in accordance with all applicable State regulations, subject to the following special conditions.

(1) Fishing at all times shall be limited to daylight hours only.

(2) One outboard motor of not more than 10 horsepower can be attached to any floating craft and to be used for fishing purposes only.

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

CHARLES S. PECK,
Refuge Manager, Lake Ilo National Wildlife Refuge, Dunn Center, North Dakota 58626.

APRIL 22, 1974.

[FR Doc.74-9728 Filed 4-26-74;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER B—ESTATE AND GIFT TAXES

[T.D. 7312]

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

Treatment of Corporate-Owned Life Insurance Where the Decedent is a Shareholder

By a notice of proposed rulemaking appearing in the FEDERAL REGISTER for Friday, August 25, 1972 (37 FR 17206), amendments to the Estate Tax Regulations (26 CFR Part 20) under sections 2031 and 2042 of the Internal Revenue Code of 1954 were proposed in order to clarify the estate tax treatment of corporate-owned life insurance where the decedent was a shareholder. After consideration of all such relevant matter as

was presented by interested persons regarding the rules proposed, certain changes were made, and the proposed amendments, subject to the changes indicated below, are adopted by this document.

Under section 2042 of the Code, if a decedent died possessed of any incidents of ownership in a life insurance policy on his life, the entire proceeds of the policy will be included in his gross estate for estate tax purposes. The term "incidents of ownership" is described in § 20.2042–1(c)(2) as including "a power to change the beneficiary reserved to a corporation of which the decedent is sole stockholder."

A problem was presented in Revenue Ruling 71–463, 1971–2 C.B. 333, which ruling was later withdrawn by Revenue Ruling 72–167, 1972–1 C.B. 307, as to whether a controlling stockholder should be treated the same as a "sole stockholder" for purposes of section 2042. The position taken in the proposed rules is that a controlling stockholder should be so treated. However, where a corporation is the beneficiary of any portion of the proceeds of a life insurance policy, there is no need for that portion to be included in the gross estate under 2042 because it directly affects the value of the stock that is included in the decedent's gross estate.

Accordingly, §20.2042–1(c) is amended by this document to provide that, with respect to proceeds of corporate-owned life insurance which are payable to either the corporation or a third party for a valid business purpose, incidents of ownership held by the corporation will not be attributed to the decedent through his stock ownership. To the extent that the proceeds of corporate-owned life insurance are not payable to the corporation or a third party for a valid business purpose, the incidents of ownership will be attributed to the insured decedent who is the sole or controlling stockholder. An amendment is also made to § 20.2031–2(f) to clarify that the portion of the life insurance proceeds excluded from the gross estate under the amendment to § 20.2042–1(c) shall be taken into consideration when evaluating the stock held by the decedent at the time of his death.

The proposed regulations stated that a decedent would not be deemed to be the controlling stockholder unless he had "actual legal or equitable ownership of stock possessing more than 50 percent of the total voting power of the corporation." The amendments adopted by this document change this provision by limiting the consideration of equitable ownership to only those situations in which the decedent had an interest in either a voting trust or a trust with respect to which he was regarded, prior to his death, as the owner under Subpart E, Part I, of Subchapter J of Chapter 1 of the Code.

The amendments adopted by this document also differ from the proposed regulation by providing rules with respect to the joint ownership of securities. These rules assure that the joint owner, who acquired the securities for an adequate and full consideraton, is the one to whom ownership is attributed for purposes of determining control. For this purpose, the provisions of section 2040 (relating to joint interests) and the regulations thereunder are incorporated by reference.

Based upon comments concerning the applicability of the proposed regulations to both split dollar and group-term life insurance policies, it was decided that the final regulations would specifically exclude only the power to cancel or surrender group-term life insurance policies as an incident of ownership attributable to a controlling stockholder. "Group-term life insurance" is defined by reference to the regulations under section 79 of the Code.

Adoption of amendments to the regulations. On Friday, August 25, 1972, a notice of proposed rulemaking was published in the FEDERAL REGISTER (37 FR 17206) in order to clarify the estate tax treatment of corporate-owned life insurance where the decedent was a shareholder. After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the following regulations are hereby adopted:

PARAGRAPH 1. Paragraph (f) of § 20.2031–2 is amended to read as set forth below.

PAR. 2. In § 20.2042–1 paragraph (a)(3) is amended, paragraph (c)(2) is revised and paragraph (c)(6) is added to read as set forth below.

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

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

Approved: April 19, 1974.

FREDERICK W. HICKMAN,
Assistant Secretary of the Treasury.

PARAGRAPH 1. Paragraph (f) of § 20.2031–2 is amended to read as follows:

§ 20.2031–2 Valuation of stocks and bonds.

* * * * *

(f) *Where selling prices or bid and asked prices are unavailable.* If the provisions of paragraphs (b), (c), and (d) of this section are inapplicable because actual sale prices and bona fide bid and asked prices are lacking, then the fair market value is to be determined by taking the following factors into consideration:

(1) In the case of corporate or other bonds, the soundness of the security, the interest yield, the date of maturity, and other relevant factors; and

(2) In the case of shares of stock, the company's net worth, prospective earning power and dividend-paying capacity, and other relevant factors.

Some of the "other relevant factors" referred to in subparagraphs (1) and (2) of this paragraph are: The good will of the business; the economic outlook in the particular industry; the company's position in the industry and its management; the degree of control of the business represented by the block of stock to be valued; and the values of securities of corporations engaged in the same or similar lines of business which are listed on a stock exchange. However, the weight to be accorded such comparisons or any other evidentiary factors considered in the determination of a value depends upon the facts of each case. In addition to the relevant factors described above, consideration shall also be given to nonoperating assets, including proceeds of life insurance policies payable to or for the benefit of the company, to the extent such nonoperating assets have not been taken into account in the determination of net worth, prospective earning power and dividend-earning capacity. Complete financial and other data upon which the valuation is based should be submitted with the return, including copies of reports of any examinations of the company made by accountants, engineers, or any technical experts as of or near the applicable valuation date.

* * * * *

PAR. 2. In § 20.2042–1, paragraph (a)(3) is amended, paragraph (c)(2) is revised and paragraph (c)(6) is added to read as follows:

§ 20.2042–1 Proceeds of life insurance.

(a) *In general.* * * *

(3) Except as provided in paragraph (c)(6), the amount to be included in the gross estate under section 2042 is the full amount receivable under the policy. If the proceeds of the policy are made payable to a beneficiary in the form of an annuity for life or for a term of years, the amount to be included in the gross estate is the one sum payable at death under an option which could have been exercised either by the insured or by the beneficiary, or if no option was granted, the sum used by the insurance company in determining the amount of the annuity.

* * * * *

(c) *Receivable by other beneficiaries.* * * *

(2) For purposes of this paragraph, the term "incidents of ownership" is not limited in its meaning to ownership of the policy in the technical legal sense. Generally speaking, the term has reference to the right of the insured or his estate to the economic benefits of the policy. Thus, it includes the power to change the beneficiary, to surrender or cancel the policy, to assign the policy, to revoke an assignment, to pledge the policy for a loan, or to obtain from the insurer a loan against the surrender value of the policy, etc. See subparagraph (6) of this paragraph for rules relating to the circumstances under which incidents of ownership held by a corporation are attributable to a decedent through his stock ownership.

* * * * *

(6) In the case of economic benefits of a life insurance policy on the decedent's life that are reserved to a corporation of which the decedent is the sole or controlling stockholder, the corporation's incidents of ownership will not be attributed to the decedent through his stock ownership to the extent the proceeds of the policy are

payable to the corporation. Any proceeds payable to a third party for a valid business purpose, such as in satisfaction of a business debt of the corporation, so that the net worth of the corporation is increased by the amount of such proceeds, shall be deemed to be payable to the corporation for purposes of the preceeding sentence. See § 20.2031-2(f) for a rule providing that the proceeds of certain life insurance policies shall be considered in determining the value of the decedent's stock. Except as hereinafter provided with respect to a group-term life insurance policy, if any part of the proceeds of the policy are not payable to or for the benefit of the corporation, and thus are not taken into account in valuing the decedent's stock holdings in the corporation for purposes of section 2031, any incidents of ownership held by the corporation as to that part of the proceeds will be attributed to the decedent through his stock ownership where the decedent is the sole or controlling stockholder. Thus, for example, if the decedent is the controlling stockholder in a corporation, and the corporation owns a life insurance policy on his life, the proceeds of which are payable to the decedent's spouse, the incidents of ownership held by the corporation will be attributed to the decedent through his stock ownership and the proceeds will be included in his gross estate under section 2042. If in this example the policy proceeds had been payable 40 percent to decedent's spouse and 60 percent to the corporation, only 40 percent of the proceeds would be included in decedent's gross estate under section 2042. For purposes of this subparagraph, the decedent will not be deemed to be the controlling stockholder of a corporation unless, at the time of his death, he owned stock possessing more than 50 percent of the total combined voting power of the corporation. Solely for purposes of the preceding sentence, a decedent shall be considered to be the owner of only the stock with respect to which legal title was held, at the time of his death, by (i) the decedent (or his agent or nominee); the decedent and another person jointly (but only the proportionate number of shares which corresponds to the portion of the total consideration which is considered to be furnished by the decedent for purposes of section 2040 and the regulations thereunder); and (iii) by a trustee of a voting trust (to the extent of the decedent's beneficial interest therein) or any other trust with respect to which the decedent was treated as an owner under subpart E, part I, subchapter J, chapter 1 of the Code immediately prior to his death. In the case of group-term life insurance, as defined in paragraph (b)(1)(i) and (iii) of § 1.79-1 of this chapter (Income Tax Regulations), the power to surrender or cancel a policy held by a corporation shall not be attributed to any decedent through his stock ownership.

* * * * *

[FR Doc.74-9752 Filed 4-26-74;8:45 am]

Title 24—Housing and Urban Development

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

SUBCHAPTER C—FEDERAL CRIME INSURANCE PROGRAM

[Docket No. R-74-109]

PART 1932—PROTECTIVE DEVICE REQUIREMENTS AMENDMENT

Industrial and Commercial Properties

The Department of Housing and Urban Development published on July 1, 1971, at 36 FR 12517, regulations with respect to the Federal Crime Insurance Program. Under the authority contained in 82 Stat. 566, 12 U.S.C. 1749bbb-17, an amendment is now being made, which will permit the use of hinges which have locking devices incorporated into their design which prevent outward opening doors from being removed even if the hinge pins have been removed.

Because this amendment permits easier compliance with the protective device requirement involved, and therefore, provides a benefit to all participants in the program without creating a hardship for anyone, notice and public procedure are unnecessary and good cause exists for making this amendment effective upon publication.

Accordingly 24 CFR Part 1932 is amended as follows:

§ 1932.31 Minimum standards for industrial and commercial properties.

* * * * *

(d) Outside hinge pins shall be welded, flanged, or screw-secured, non-removable pins unless the hinge is constructed so as to provide equivalent protection against the removal of the door to which it is attached when the door is in the closed position.

* * * * *

Effective date. This amendment is effective April 29, 1974.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.74-9664 Filed 4-25-74;8:45 am]

Proposed Rules

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

DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Part 7]

PADRE ISLAND NATIONAL SEASHORE, TEXAS

Off Road Use of Vehicles, Hunting, Prohibited Operations

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3) and section 5 of the Act of September 28, 1962 (76 Stat. 652; 16 U.S.C. 459d–4), 245 DM–1 (34 FR 13879), as amended, National Park Service Order No. 77 (38 FR 7478), Regional Director, Southwest Region Order No. 5 (37 FR 7722), as amended, it is proposed to amend § 7.75 of Title 36 of the Code of Federal Regulations as set forth below.

The purpose of these amendments is to eliminate the section on fishing which is no longer needed in view of the provisions of Part 2 of this chapter; to clarify the regulation concerning hunting; to add a section on off-road vehicle operation as required by sections 3 and 4 of Executive Order 11644 and Part 4 of this chapter; and to modify the section on towing of persons and include it under a new section on prohibited vehicle operations.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Specifically, regarding the designation of areas and routes, for the use of off-road vehicles in amended § 7.75(a)(2) below, the Department will adhere to the 30-day period for comment established by § 4.19(b) of this chapter, as amended in the FEDERAL REGISTER of April 1, 1974. Accordingly, interested persons are invited to submit written comments, suggestions, or objections regarding the proposed amendments to the Superintendent, Padre Island National Seashore, P.O. Box 8560, Corpus Christi, Texas 78412, on or before May 29, 1974.

Section 7.75 is amended by adding a new paragraph (a), paragraph (b) is amended, and paragraph (e) is revised to read as follows:

§ 7.75 Padre Island National Seashore.

(a) *Off-road motor vehicle and motorcycle operation.* (1) The following regulations pertain to the operation of motor vehicles and motorcycles off established roads and parking areas. The operation of such vehicles and motorcycles is subject also to the applicable provisions of Part 4 of this chapter and paragraphs (e) and (g) of this section.

(i) No person may operate a motor vehicle or motorcycle without a valid operator's license or learner's permit in his possession; an operator who has a learner's permit must be accompanied by an adult who has a valid operator's license; a driver's license or learner's permit must be displayed upon the request of any authorized person.

(ii) In addition to the requirements of §§ 4.1, 4.12, 4.19, and 4.21 of this chapter, every motor vehicle and motorcycle must have an operable horn, windshield wiper or wipers (except motorcycles), brake light or lights, and rearview mirror.

(iii) No person may operate or ride as a passenger on a motorcycle without wearing approved protective headgear (a helmet contructed to meet the requirements of Department of Transportation Standard Numbered Z90.1).

(iv) Motor vehicles and motorcycles must have valid license plates.

(v) Every motor vehicle and motorcycle must have a valid State vehicle inspection certificate when such certificate is required for highway use in the State in which the vehicle is licensed.

(vi) When two motor vehicles or motorcycles meet on the beach, the operator of the vehicle in southbound traffic shall yield the right-of-way, where necessary, by turning out of the track to the right.

(2) *Off road motor vehicle and motorcycle use areas and routes.* The following routes and areas are open to such vehicles: (i) Travel is permitted on all of the beach adjacent to the Gulf of Mexico, except for the approximately 4½ miles of beach between the North and South Beach Access Roads.

(ii) The route west of Big Shell Beach, locally known as the Back Road. This route begins on the beach adjacent to the Gulf of Mexico approximately three miles south of Yarborough Pass and returns to the beach approximately 15 miles south of Yarborough Pass.

(iii) The route beginning on the beach adjacent to the Gulf of Mexico approximately 11 miles south of Yarborough Pass and ending with its intersection with the Back Road approximately one mile west of the beach. This route is locally known as the Dunn Ranch Road.

(iv) Travel is permitted in an area within 200 feet of the north bank of the Mansfield Channel, beginning on the beach adjacent to the Gulf of Mexico and ending approximately ¾ mile west of the beach.

(v) Authorized emergency vehicles, as defined in § 4.2(g) of this chapter, may be operated in closed areas to provide for the safety of persons utilizing these areas.

(b) *Hunting.* Hunting is prohibited, except that during the open season prescribed by State and Federal agencies, hunting of waterfowl is permitted upon the waters of Laguna Madre wherever a floating vessel of any type is capable of operating, at whatever tide level may exist: *Provided,* That the waters immediately adjacent to North and South Bird Islands shall be closed to all hunting as posted. Such hunting, where authorized, shall be in accordance with all applicable Federal, State and local laws for the protection of wildlife.

* * * * *

(e) *Prohibited vehicle operations.* The following operations are prohibited on and off established roads and parking areas.

(1) The use of ground-effect or air-cushion vehicles is prohibited.

(2) The use of vehicles propelled by the wind, commonly known as sail cars, is prohibited.

(3) Towing of persons behind vehicles on a sled, box, skis, surfboard, parachute, or in any other way is prohibited.

(4) Riding on fenders, tailgate, roof, or any other position outside of the vehicle is prohibited.

* * * * *

Dated: April 23, 1974.

RUSSELL E. DICKENSON,
Acting Director,
National Park Service.

[FR Doc.74-9715 Filed 4-26-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

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

[Docket No. AO–231–A41 etc.]

MILK IN THE NORTH TEXAS AND CERTAIN OTHER MARKETING AREAS

Partial Decision on Marketing Agreement and Order

7 CFR part	Marketing Area	Docket No.
1126	North Texas	AO–231–A41
1121	South Texas	AO–364–A8
1127	San Antonio, Texas	AO–232–A27
1128	Central West Texas	AO–238–A30
1129	Austin-Waco, Texas	AO–256–A23
1130	Corpus Christi, Texas	AO–259–A27

A public hearing was held upon proposed amendments to the marketing agreements and the orders regulating the handling of milk in the aforesaid marketing areas. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7

CFR Part 900), at Dallas, Texas, on December 3–7, 1973 and January 22–25, 1974 pursuant to notice thereof issued on November 9, 1973 (38 FR 31432).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on March 21, 1974 (39 FR 11275) filed with the Hearing Clerk, United States Department of Agriculture, his partial recommended decision containing notice of the opportunity to file written exceptions thereto with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the South Texas marketing area.

The material issues, findings and conclusions, rulings, and general findings of the partial recommended decision are hereby approved and adopted and are set forth in full herein.

The material issues on the record of the hearing relate to:

1. Whether the handling of milk produced for sale in the proposed merged and expanded marketing area is in the current of interstate commerce, or directly burdens, obstructs, or affects interstate commerce in milk or its products;

2. Whether the marketing areas of the present North Texas, South Texas, San Antonio, Central West Texas, Austin-Waco and Corpus Christi orders should be included under one order;

3. Whether the proposed merged marketing area should be expanded to include additional territory in the States of Texas and Arkansas;

4. If a single order is issued for the proposed merged and expanded marketing area, what its provisions should be with respect to:

(a) Milk to be priced and pooled;

(b) Classification of milk;

(c) Class prices, butterfat differentials, and location adjustments;

(d) Distribution of proceeds to producers; and

(e) Administrative provisions;

5. Need for amending the classification and pricing provisions of the South Texas order prior to any merger of orders; and

6. Whether an emergency exists to warrant the omission of a recommended decision with respect to Issue 5.

This partial decision deals only with Issues 5 and 6. The remaining issues are reserved for a later decision.

Findings and Conclusions

The following findings and conclusions on Issues 5 and 6 are based on evidence presented at the hearing and the record thereof:

5. *Classification and pricing of milk under the South Texas order.* A new classification and pricing plan for milk should apply in the South Texas market at such time as similar plans become effective in the other Texas Federal order markets.

As set forth in recent decisions of the Assistant Secretary, it has been determined that a uniform milk classification plan should be incorporated in 39 milk orders, including all orders in Texas except the South Texas order.[1] Upon producer approval and effectuation of the proposed amended orders, each of the 39 orders will provide for three classes of utilization, with the milk uses included in each class being the same for each order. The same basic procedure will be used for classifying milk transferred or diverted from pool plants to other plants, and for allocating a handler's receipts to his utilization to determine the classification of his producer milk. Each order will use the same Class II and Class III prices, as well as a single butterfat differential.

At the hearing to consider the merger of the aforesaid six Texas orders, it was proposed that the same general classification plan be adopted for the proposed merged order. It was generally recognized, however, that the merger action could not be completed by the time the classification changes in the individual orders presumably would become effective. Since the South Texas order would not be similarly changed at that time, certain producer groups and handlers proposed or supported the incorporation of the new classification plan in the South Texas order during the interim period preceding any merger.

Proponents claimed that the South Texas order was not included in the 39-market classification proceedings because of pending litigation on the possible termination of the order. They contended that with the recent resolution of the legal matter steps should be taken to effectuate in the South Texas market the same classification and pricing changes that are expected to be implemented in the other Texas markets. Proponents stressed that the intermarket competition now existing among handlers in the several Texas markets, including South Texas, makes it necessary that all of the Texas orders be amended in this respect at the same time. There was no opposition to the proposal.

As already noted, the changes in the other orders will provide for three classes of utilization. Only two classes are provided under the present South Texas order. Under the other Texas orders, such products as cream, cottage cheese and ice cream will be included in a "middle" class and priced at the Minnesota-Wisconsin price for the month plus 10 cents. Under the South Texas order, cream is a Class I product, with the Class I price being the Minnesota-Wisconsin price for the second preceding month plus $2.68. Producer milk used in cottage cheese and ice cream, on the other hand, is now classified as Class II milk under the South Texas order. The applicable class price is the lower of the Minnesota-Wisconsin price or a butter-nonfat dry milk formula price. In recent months, the latter price determinant has prevailed. The South Texas Class II price in December 1973, for example, was $1.23 under the price that would have applied to such milk uses under the new classification plan. Similarly, the South Texas Class II price for milk used in butter, nonfat dry milk and hard cheese was $1.13 lower than the price that would have prevailed for such uses under the new pricing arrangement. Price differences would exist also for Class I products because of the use of different butterfat differentials.

There is substantial competition among handlers regulated by the North Texas and South Texas orders. In September 1973, for example, nearly 26.6 million pounds of fluid milk products were distributed in the South Texas marketing area from 11 North Texas pool plants. In this circumstance, the differences in the present classification and pricing of milk under the South Texas order relative to the new classification plan for the North Texas order would be disruptive to the competitive relationships of handlers and to the orderly marketing of producer milk. This would be particularly so for the handler who is now regulated under the South Texas order because the majority of his Class I sales are in that market but whose distributing plant, nevertheless, is located in the center of the North Texas market where he also has sales. This handler stressed that his competitive situation makes it particularly necessary that the new classification plan be adopted in the South Texas market concurrently with the implementation of similar plans for the other Texas markets.

For these reasons, classification and pricing changes similar to those determined appropriate for the other Texas orders should be made in the South Texas order. Such changes should be effectuated concurrently with the changes in the other orders. Although the cooperative association proposing the six-order merger urged that the plan be modified in several respects for the merged order, it indicated that the South Texas classification plan should coincide with the classification provisions of the other Texas orders during any interim period preceding a merger.

In view of the broad industry participation in the development of a uniform classification plan for the 39 markets, and because of the comprehensive review of this issue at two regional hearings, proponents of the South Texas order changes did not present extensive testimony at the Texas hearing concerning the details of the new plan. Proponents contended that the uniform plan developed for the other markets was equally appropriate for the South Texas market and that a full reconsideration at this hearing of all the order changes encompassed by the new plan, and the supporting reasons for such changes, was unnecessary.

The new classification plan that evolved from the 39-market proceedings reflects the combined efforts of both producers and handlers throughout much of the milk industry to develop a uniform plan for classifying milk for pricing purposes. Prior to the first of two regional hearings on uniform classification

[1] Official notice is taken of two decisions issued by the Assistant Secretary on February 19, 1974, concerning the classification and pricing of milk under 32 orders (Georgia, et al., 39 FR 8452, 8712, 9012) and under 7 orders (Chicago Regional, et al., 39 FR 8202).

provisions, the National Milk Producers Federation, an organization of cooperative associations of dairy farmers and federations of such cooperative associations, undertook the development of a uniform milk classification plan for use under milk orders generally. Guidelines were formulated for use by member organizations in the drafting of specific classification proposals for consideration at public hearings. Using these guidelines as a basis for their proposals, several cooperative associations petitioned the Department for hearings on proposals relating to the classification and pricing of milk under 39 present orders, including all orders in Texas except the South Texas order. While differing on some of the provisions proposed by producers, a uniform classification plan for the 39 orders was advocated also by the Milk Industry Foundation and the International Association of Ice Cream Manufacturers, national trade associations of fluid milk and ice cream processors whose members were operating in each of the markets under consideration.

Following extensive hearings for 7 markets and then 32 markets and subsequent recommended decisions, revised recommended decisions were issued for both proceedings on the basis of industry exceptions to the initial recommendations. The industry was then provided a further opportunity to participate in these rule-making proceedings through the filing of exceptions to the revised recommendations concerning a new classification plan. Moreover, many of the parties that have a direct interest in the marketing of milk in the South Texas area participated in the development of the new classification plan for the 39 markets, and particularly with respect to the application of the new plan to the Texas orders that were under consideration.

Accordingly, the description and justification set forth herein concerning the detailed provisions of the proposed South Texas classification plan are patterned on the findings and conclusions of the 32-market decision applicable to the other Texas orders.

In conjunction with the development of uniform provisions pertaining to the classification and pricing of milk under the 39 orders, a uniform format of order provisions also was developed. Orders contain essentially the same categories of provisions, such as those relating to the definition of a pool plant or other source milk, those setting forth the class price formulas, or those describing how the uniform price is to be computed. However, many orders are structured in such a way that provisions serving essentially the same purpose under all orders do not appear in each order in the same place or under the same section title.

It has been determined that coordination of the 39 orders in this respect would be helpful to those in the industry who must work with several orders, a situation that is becoming increasingly common as cooperatives and handlers continue to expand their marketing activities into more and more regulated markets. Moreover, the opportunity to effect changes in a relatively large number of orders at the same time made the adoption of a uniform order format a particularly desirable step at this juncture of the order program.

For these same reasons, the new format of order provisions adopted for the other orders likewise should be adopted for the South Texas order.

The South Texas order is set forth in its entirety at the end of this document. The order reflects the revised order format as well as the classification and pricing amendments adopted herein. In adapting the order to the new format, no substantive changes have been made in those provisions not closely related to the classification issue. Since the classification and pricing amendments may be less discernable to the reader with the reprinting of the complete order, the sections in the order that encompass the basic changes in classification and pricing are listed below:

Sections 12–16, 30, 40–44, 50, 52–54, 60, 62, 74–76, and 85.

Some of the amendments adopted herein would change certain procedures under the order that are carried out after the end of the month to which they apply. These include the submission of reports, the classification of milk, and the computation and announcement of certain class prices, butterfat differentials, and producer prices. It is intended, however, that the amendments apply only to that milk handled after the effective date of the changes. Such amendments are not intended to affect the completion of previously existing procedures with respect to milk handled prior to the effectuation of the amendments.

(a) *Revision of the present Class I classification.* With certain exceptions noted below, Class I milk under the South Texas order should include all skim milk and butterfat disposed of in the form of milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milk shake and ice milk mixes containing less than 20 percent total solids. Skim milk and butterfat disposed of in any such product that is flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted likewise should be classified as Class I milk. Such classification should apply whether the products are disposed of in fluid or frozen form.

In addition, Class I milk should include all skim milk and butterfat disposed of in the form of any other fluid or frozen milk product (if not specifically designated as a Class II or Class III use) that contains by weight at least 80 percent water and 6.5 percent nonfat milk solids, and less than 9 percent butterfat and 20 percent total solids.

Skim milk disposed of in any product described above that is modified by the addition of nonfat milk solids should be Class I milk only to the extent of the weight of the skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

Class I milk should not include, however, skim milk or butterfat disposed of in the form of such fluid products as 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, those containing by weight less than 6.5 percent nonfat milk solids, or whey.

As a convenience in drafting order provisions, each product designated herein as a Class I product would be defined in the order as a "fluid milk product."[2]

Class I milk also should include any skim milk and butterfat not specifically accounted for in Class II or Class III, other than shrinkage permitted a Class III classification.

Most of the products listed above for inclusion in Class I are now included in this class. When packaged as sterilized products in hermetically sealed metal or glass containers, however, such products are treated as Class II products. The present order also does not differentiate milkshake mixes for classification purposes on the basis of solids content.

The adopted Class I classification would not include several products now classified in the highest class. These include cream, sour cream, sour cream products and half and half. Since June 1973, sour cream and sour cream products have been treated as Class II products on the basis of orders suspending certain provisions of the South Texas order. The classification of the several cream products is discussed under Issue 5(b).

The order also now includes in Class I packaged fluid milk products in inventory at the end of the month. As discussed under Issue 5(f), such inventories would be classified in a lower class under the revised order.

As indicated, milkshake and ice milk mixes containing less than 20 percent total solids should be included in Class I. Such mixes containing a greater percentage of solids should be Class II products.

Milkshake and ice milk mixes are generally marketed through two channels. Limited quantities of such mixes are processed for home consumption, with such mixes being distributed to consumers through food stores and on home delivery routes. The major outlet for milkshake and ice milk mixes, though, is the so-called "soft-serve" trade. Mixes processed for this use are sold to commercial establishments where the product is run through a special freezer and dispensed to the public in a semisoft form.

Milkshake and ice milk mixes are basically similar in composition and purpose

[2] The reader should keep in mind that the order does not classify products per se but rather the skim milk and butterfat disposed of in the form of a particular product or used to produce a particular product. To simplify the presentation of the findings and conclusions, however, reference is made in this decision to Class I products, Class II products and Class III products, or to certain products included in a particular class.

to what might be considered as traditional frozen desserts, such as ice cream. Although such shake mixes are intended to be consumed in a semisoft form, or even in a very thick fluid form, they are marketed for essentially the same use as the traditional frozen desserts. This is the case whether such mixes are sold through the "soft-serve" trade or for home use. With minor exception, as noted below, milk used in milkshake and ice milk mixes thus should be classified in the same class as milk used in the traditional frozen desserts. As discussed later in this decision, the classification plan adopted herein includes frozen desserts in Class II.

It is possible that a product very similar in composition and form to chocolate milk could be marketed under the label of a milkshake mix for the purpose of having a lower classification apply to the product. Since such a product actually would have the same general form and purpose as other fluid milk products now classified as Class I under this order, it should be included in the Class I classification. It is necessary, though, to provide some means of distinguishing between such a product and the general category of milkshake mixes that are sold in competition with frozen desserts. For this purpose, the total solids content of the product should be used.

A standard of 20 percent or more total solids should encompass those milkshake and ice milk mixes intended for use as a type of frozen dessert. Mixes with less solids are similar in composition to chocolate milk and other flavored fluid milk products and should be a Class I product.

No exception to the Class I classification of milk should be made for fluid milk products in sterilized form. The sterilization of fluid milk products does not change the form or purpose of such products. As in the case of the unsterilized fluid milk products which they resemble, such sterilized products are disposed of in fluid form for consumption as a beverage. They are generally intended for use in place of their unsterilized counterparts and are thus competing for the same customers.

Returns to producers for milk disposed of in the form of fluid milk products should be the same whether such products are sterilized or unsterilized. Such products in either form may be marketed for the same beverage use. Classifying all such products in Class I will assure that the returns from producer milk used in sterilized fluid milk products will contribute on the same basis as returns from producer milk used in unsterilized fluid milk products toward inducing an adequate supply of milk for beverage use.

With the removal of any exception to the Class I classification of milk because of sterilization, specific reference must be made in the "fluid milk product" definition to the exclusion of certain products that otherwise could be construed to fall within such definition. Such products are evaporated or condensed milk or skim milk, formulas in hermetically sealed glass or all-metal containers that are especially prepared for infant feeding or dietary use, and products (such as flavored drinks in "pop" bottles) containing by weight less than 6.5 percent nonfat milk solids. These products are now excluded from the Class I classification and such exclusion should be continued, notwithstanding the fact that they are sold to the public in fluid form. Evaporated milk and condensed milk sold for home use are intended primarily for cooking purposes. They are not consumed normally as a beverage. Infant and dietary formulas, which are being sold in hermetically sealed glass or all-metal containers, are specialized food products prepared for a limited use. Such formulas do not compete with other milk beverages consumed by the general public. Similarly, fluid products containing only a minimal amount of nonfat milk solids are not considered as being in the competitive sphere of the traditional milk beverages.

The present basis for defining a "fluid milk product" should be modified. The primary concern with any fluid milk product definition is that it clearly define the products or types of products that are intended to be included in the definition. The fluid milk product definition adopted herein, which incorporates both the listing of specified products and the use of composition percentages, should meet this requirement.

For simplicity, the fluid milk product definition should continue to list the generic names of those products commonly sold for consumption as beverages. The products listed in the adopted definition encompass most of the forms in which milk for fluid uses is sold. Anyone referring to this fluid milk product definition may easily ascertain in the case of most milk products whether or not a particular product is included in the definition.

A listing of products alone in the fluid milk product definition may not clearly indicate the classification of new milk products developed for fluid consumption. With certain limited exceptions noted, the fluid milk product definition is intended to include all milk products that are distributed for use as beverages. Although a new milk beverage introduced on the market might not be encompassed within the list of named products, it should be treated as a fluid milk product, nevertheless, if its composition is similar to that of the listed products. This will be the result of the standards of product composition for fluid milk products herein adopted.

As indicated, the adopted composition standards would embrace any fluid or frozen milk product not specified as a Class II or Class III product that contains by weight at least 80 percent water and 6.5 percent nonfat milk solids, and less than 9 percent butterfat and 20 percent total solids, including both milk solids and non-milk solids. The 9 percent butterfat standard coincides with the butterfat percentage adopted herein to delineate the mixtures of cream and milk or skim milk to be included in Class II. The total solids and water percentages represent a reasonable measure of the fluidity of those products that normally are consumed as beverages. The 6.5 percent nonfat milk solids standard is used to exclude from the fluid milk product definition those products which contain some milk solids but which are not closely identified with the dairy industry, such as chocolate flavored drinks in "pop" bottles.

These composition standards are chosen so as to conform as closely as possible to the water, solids and butterfat content of those products specifically listed in the fluid milk product definition, i.e., the traditional milk beverages. It is intended that these standards apply only to milk products, and only to such products that are being marketed for consumption in fluid form. Such standards would not be applied to products such as soups, which are not customarily thought of as milk products, or to products that would be a type of frozen dessert marketed for consumption in frozen form.

In determining whether or not a milk product in fluid form falls within the composition standards of the fluid milk product definition, such standards should be applied to the composition of the product in its finished form, not to the composition of the product on a skim equivalent basis. A new product not intended for beverage use might contain in its finished form somewhat more than the maximum total solids specified for a fluid milk product under the adopted composition standards. On this basis, the product would not fall within the fluid milk product definition. Application of the composition standards to this product on a skim equivalent basis, however, could result in the product meeting such standards and thus being defined as a fluid milk product.

Applying the composition standards to products in the form in which marketed could exclude from the fluid milk product definition a new concentrated fluid product that is intended to be consumed as a beverage only after reconstitution. For the present time, however, the composition standards should be applied to a product in its finished form. A refinement of such standards may be appropriate once there has been an opportunity to evaluate their applicability under actual market conditions.

It should be noted that under the adopted classification provisions accounting for a new product on other than a skim equivalent basis would be limited solely to determining whether or not the product meets the composition standards of the fluid milk product definition. For all other purposes under the order, the product would be accounted for on a skim equivalent basis.

In applying the 6.5 percent nonfat milk solids standard, it is intended that this standard apply to such solids in any form except sodium caseinate. As set forth in the "filled milk" decision applicable to this and other orders, sodium caseinate in any product is treated under the orders as a nonmilk ingredient.[3] There is no basis for changing the procedure.

The use of composition standards as a means of defining fluid milk products

should not deter the development of new milk products, as might be contended. Should the Class I classification of a new product appear to be incongruous with the intended use of the product, the hearing process remains as an avenue through which a different classification may be considered.

(b) *Classification and pricing of milk not needed for Class I use.* Two use classes, Class II and Class III, should be provided for skim milk and butterfat utilized for other than Class I purposes. The Class II price should be the basic formula price (Minnesota-Wisconsin manufacturing milk price) for the month plus 10 cents. The price for Class III milk should be the basic formula price for the month.

Class II milk should include skim milk and butterfat disposed of in the form of eggnog, yogurt or a "fluid cream product", i.e., cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients. Any product containing 6 percent or more nonmilk fat (or oil) that resembles any of these products likewise should be in this class. Also, eggnog, yogurt and fluid cream products that are in inventory at the end of the month in packaged form should be in Class II.

Included also in this classification should be skim milk and butterfat used to produce cottage cheese, low fat cottage cheese, dry curd cottage cheese, milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, frozen dessert mixes, any concentrated milk product in bulk fluid form (unless used in a Class III product), plastic cream, frozen cream, anhydrous milkfat, custards, puddings, pancake mixes, and formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

A Class II classification should apply also to bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages.

Class III milk should include skim milk and butterfat used to produce cheese (other than cottage cheese, low fat cottage cheese and dry curd cottage cheese), butter, any milk product in dry form, any concentrated milk product in bulk fluid form that is used to produce a Class III product, evaporated or condensed milk (plain or sweetened) in a consumer-type package, evaporated or condensed skim milk (plain or sweetened) in a consumer-type package, and any product not otherwise specified as a Class I, Class II or Class III product.

Other Class III uses should include bulk and packaged fluid milk products and bulk fluid cream products in inventory at the end of the month, and that portion of modified (by the addition of nonfat milk solids) fluid milk products not included in Class I. Class III should include any fluid milk product or Class II product accounted for on a "disposed of" basis that is used for animal feed, or is dumped if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition. Also, shrinkage within certain limits should be classified as Class III milk.

Under the present South Texas order, skim milk and butterfat utilized for other than Class I purposes is classified in a single class, Class II. The Class II price is the Minnesota-Wisconsin manufacturing milk price (basic formula price) for the month, but not to exceed by more than 10 cents a butter-nonfat dry milk formula price. The product formula price is computed by adding together the values determined by (1) multiplying the average monthly price of Grade A bulk butter at Chicago, less 3 cents, by 4.2 and (2) multiplying the average monthly price of spray process nonfat dry milk in the Chicago area, less 5.5 cents, by 8.5 and then by 0.965.

Before discussing the basis for establishing a new intermediate price class, consideration should be given to the appropriate Class III price under the revised classification plan. This is necessary since the price level for Class III milk bears on what the Class II price should be.

The purpose of adopting a revised classification plan for the South Texas order strongly suggests that the Class III price should be the same as that determined appropriate for the other Texas orders. In developing a uniform classification plan for use among orders generally, producers and handlers alike urged that a particular product be classified in each market in the same class. Although the various parties were not in agreement on the classification scheme that should be adopted, the common purpose of their proposals was the resolution of the many differences among orders in the classification of milk. It was the general consensus that with the burgeoning intermarket sales of various milk products over increasingly wider areas, these differences in classification have been causing undue competitive inequities among handlers in various markets seeking the same outlets for milk.

Any attempt to resolve these competitive inequities through the adoption of a uniform classification plan cannot be divorced from consideration of the prices to be applicable to each class. The classification of milk does nothing more than determine what uses of milk are to be subject to different levels of price. The equity benefits to handlers of using the same classification plan in all markets can be fully realized only if the price for each class is uniform (except for appropriate location adjustments) in all markets.

On the basis of the classification proceedings for 39 markets, including most of the Texas markets, it has been determined that the Minnesota-Wisconsin price should be the Class III price in these markets. Thus, the continued use of the present South Texas Class III price formula, which includes the butter-nonfat dry milk formula price as a Class III price determinant, would nullify much of the intended effectiveness of classifying a particular product in the same class in each market.

In considering the appropriate mechanism for determining the Class III price, it is consistent with the purposes of the statute authorizing milk orders that reserve milk supplies be priced at the highest practicable level compatible with orderly disposal of the milk. Excess market supplies normally must be channeled into manufactured products that compete on a national basis with similar products made from ungraded milk. It is important, therefore, that the price for surplus milk in the regulated market be in close alignment with prices being paid by processors of manufacturing grade milk.

The Minnesota-Wisconsin price is a representative pay price for about half of the manufacturing grade milk in the United States. This price reflects a farm price level determined by competitive conditions that are affected by the demand for all major manufactured dairy products. It also reflects the supply and demand of such products within a highly coordinated marketing system, which is national in scope. Use of the Minnesota-Wisconsin price as the Class III price will result in order prices for surplus milk that are in close alignment with the dominant price structure for raw milk within the manufacturing milk segment of the dairy industry.

Certain uses of producer milk not needed for Class I purposes should be priced at a somewhat higher level than that applicable to milk in the adopted Class III uses. These higher-valued uses, to be included in the Class II classification, were set forth at the beginning of this discussion on pricing surplus milk. The Class II price should be the Minnesota-Wisconsin price plus 10 cents, the same price determined to be appropriate for Class II milk under the 39 orders mentioned earlier.

Of the products adopted herein for inclusion in Class II, the two usually of principal importance on a volume basis are frozen desserts and cottage cheese. For this discussion the term "cottage cheese" encompasses cottage cheese (i.e., creamed cottage cheese), lowfat cottage cheese, and dry curd cottage cheese.

There are several distinguishing production characteristics for cottage cheese and frozen desserts that support a higher price for milk in these proposed Class II uses than for milk channeled into the

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[3] Official notice is taken of the Assistant Secretary's decision issued on October 13, 1969 (34 FR 16881), with respect to the Memphis, Tenn., and certain other marketing areas.

residual surplus uses. There is little, if any, relationship between the quantity of Class II products made and the amount of reserve milk in a market, as is the case with respect to butter and nonfat dry milk, for instance. The demand for these "soft" products is related closely to the current consumer demand for such products. Unlike the "hard" manufactured products, cottage cheese and frozen desserts have a more limited storage life and must be processed on a regular basis. Thus, as in the case of fluid milk products, handlers normally want adequate supplies of fresh, high-quality producer milk to be made available at their plants at all times for these Class II uses.

Frozen dessert and cottage cheese production is commonly an integral part of the processing operations of fluid milk distributing plants. Such plants are usually located in or near the populated centers of the market. This entails a greater hauling expense for producers than when the reserve milk is processed in the production area, as is generally the case with respect to butter, nonfat dry milk and hard cheese manufacture.

The marketing situation for other proposed Class II uses, such as eggnog, yogurt, custards, puddings, pancake mixes, dietary and infant formulas, and sales of bulk milk and cream to commercial food processors, is essentially the same as for cottage cheese and frozen desserts.

The adopted Class II price (the Minnesota-Wisconsin price plus 10 cents) is a reflection of some of the additional value which producer milk used in these several proposed Class II uses has to regulated handlers. Although local producers represent the regular source of milk for such uses, a handler may choose to use milk from some other source. Such milk could not be obtained on a regular basis, however, at less than the cost of producer milk under the adopted pricing scheme.

It is recognized that an individual handler may find at times that producer milk does not represent the cheapest source of milk for his Class II uses. Presumably the alternative source would be concentrated forms of milk since health regulations would not permit the receipt of ungraded supplies of whole milk at a pool distributing plant, and graded supplies would not be available on a regular basis at less than the Class II price.

Under the revised allocation provisions adopted herein, receipts of nonfluid other source milk such as condensed skim milk or nonfat dry milk that are used in a Class II product would be allocated directly to the handler's Class II uses, with no obligation applying under the order to such milk. Under this arrangement, the handler could choose to use the other source milk without the cost impact of down-allocation should the cost of such milk become less than the cost of producer milk. The handler thus could rely upon whichever source of milk best fits his competitive and operational circumstances.

Rather than produce his own Class II products a handler might choose to purchase the products from some other source. There is no indication, however, that under the adopted pricing, and with similar pricing in nearby regulated markets, such a handler could enhance his competitive position relative to handlers using producer milk. Moreover, the cost of transporting the proposed Class II products from some distant area where a lower product cost might prevail to outlets in the South Texas market would generally negate any seeming price advantage attributable to differences in applicable prices.

Classifying in Class II the several types of cream items, some of which are now in Class I while others are in Class II, will accommodate the industry's desire for a lower price for milk used in cream products and at the same time price at the same level a variety of products that compete with each other. Half and half, whether sterilized or unsterilized, and light cream are used principally by consumers in coffee. Aerated cream and sterilized and unsterilized whipping cream are used as dessert toppings. Both graded and ungraded sour cream and sour mixtures are used by consumers for similar purposes. The same classification for these cream products will result in uniform pricing to handlers for milk used in products competing in the same trade channels for essentially similar uses.

Although the present Class I cream products sold in the South Texas market must be made from inspected milk, which is delivered regularly by producers to distributing plants, it is the position of producers that milk sold in the form of such products should no longer be subject to the Class I price. Relative to the total Class I sales of producer milk, cream products generally represent only a very small percentage of the Class I market. Thus, this classification change will have relatively little effect in total on the returns to producers.

In connection with the reclassification of cream products, it is desirable to define a new term—"fluid cream product". "Fluid cream product" would mean cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

With the reclassification of cream, movements of cream to or from a plant no longer should be considered in determining whether a plant meets the pooling requirements of the order.

The order now provides that any "filled" product containing 6 percent or more nonmilk fat (or oil) shall be in the surplus price class. With the establishment of an intermediate price class, it is appropriate that any such filled products that resemble the proposed Class II products made with milk fat likewise be included in this class. The substitution of nonmilk fat for milk fat in a product merely changes the composition of the product and not its use. For competitive reasons, a comparable classification of products made with milk fat and their filled counterparts is necessary.

Condensed milk or skim milk in bulk, plastic cream, frozen cream and anhydrous milk fat are "intermediate" products that also should be included in Class II. These products are not end uses in themselves but instead are used in making other products, including frozen desserts and food products such as candy and soup. Under the classification adopted herein, frozen desserts and food products are Class II uses for milk. Accordingly, producer milk used in the several intermediate products likewise should be priced at the Class II level.

Recognition should be given, however, to the possible use of condensed milk or skim milk in making a Class III product. Such products may be processed at times into dried products, which would be a Class III use under the revised classification plan. In this case, the milk used to produce the condensed product should be classified as Class III milk.

Such classification requires, of course, that the condensed product be followed to its ultimate use. Presumably, the final disposition of the condensed product can be easily ascertained when it is moved to a plant containing only drying facilities. Should the condensed product be moved to a plant having mixed processing operations and receipts of condensed milk from different sources, ascertainment of the ultimate use of the condensed product in question may be difficult, if not impossible. To the extent that it can be satisfactorily determined that the ultimate use of the "intermediate" condensed product was in a Class III product, the lowest classification should apply to the producer milk used in the condensed product.

(c) *Other source milk definition.* Because of the revised classification plan, certain changes in the present other source milk definition are necessary. This definition would continue to serve, however, the present function of implementing the identification of various categories of receipts at a regulated plant.

At present, fluid milk products from any source other than producers, cooperatives acting as a handler for farm bulk tank milk, pool plants, and plant inventory at the beginning of the month are considered as other source milk. Under the revised classification plan, however, cream no longer would be defined as a fluid milk product. To facilitate the application of other provisions of the order, it is desirable, nevertheless, that fluid cream products, when in bulk form, continue to be treated in the same manner as fluid milk products for purposes of applying the other source milk definition.

Other source milk also should include any receipts in packaged form of fluid cream products, eggnog or yogurt (or any filled product resembling such products). These are Class II products under the revised classification plan. As provided herein, such receipts of other source milk would be allocated directly to the handler's Class II utilization, rather than being allocated to the extent possible to the handler's lowest utilization as is provided in some cases for other types of

other source milk. Thus, no handler obligation would apply under the provisions adopted herein to these receipts of packaged Class II products.

The order should provide that products manufactured in a pool plant during the month and then reprocessed, converted into, or combined with another product in the same plant during the same month not be defined as other source milk. A typical processing operation would be for a handler to make condensed skim milk from producer milk and then use the condensed product in making ice cream. It is intended under this situation that the producer milk be considered as having been used to produce ice cream. The condensing operation is merely one of the steps performed by the handler in processing ice cream from raw milk.

It is recognized that there might be some difficulty in determining the source of the condensed skim milk that is reprocessed in the plant should a handler use during the month condensed skim milk not only from his current condensing operation but perhaps from inventory held over from the previous month or purchases from another plant. If this situation arises, the condensed skim milk produced in the plant during the current month should be considered as having been reprocessed first before any condensed skim milk from other sources.

(d) *Accounting for nonfat milk solids added to milk and milk products.* Certain changes should be made in the present method of classifying the skim milk equivalent of nonfat milk solids added to certain products.

Currently, the order provides that a modified fluid milk product shall be classified as Class I in the amount of the weight of an equal volume of an unmodified product of the same nature and butterfat content. The remaining skim milk equivalent of the nonfat milk solids in such product is classified in the lowest class. This procedure should be continued in the case of those products that would be defined as fluid milk products.

Under the new classification plan, cream products now defined as fluid milk products would be included instead in Class II. Because it is not intended that Class II outlets be protected in any way for producers, there is not the same economic basis for classifying modified Class II products in the manner just described. Accordingly, the order should provide in the case of modified Class II products, such as half and half and light cream, that the entire weight of the skim milk equivalent of the solids added be classified in Class II. This procedure would differ from that applicable to modified fluid milk products in that no part of the skim milk equivalent of the added solids would be classified in the lowest class. As described in detail later, nonfat dry milk or condensed milk that is added to a Class II product would be allocated directly to the handler's Class II use. Thus, classification of the entire skim milk equivalent in Class II would not affect adversely the handler's pool obligation under the allocation procedure.

(e) *Classification of milk transferred or diverted to other plants.* Certain changes should be made in the provisions of the order that prescribe the classification of fluid milk products transferred or diverted from a pool plant to another plant. Several of the changes become necessary with the adoption of three classes of utilization in place of the present two classes. Other changes are appropriate for purposes of uniformity among orders and clarity in the classification of milk.

Under the adopted classification plan, fluid cream products would be classified as Class II products. If such products are transferred to another plant in packaged form, the skim milk and butterfat contained therein should be classified as Class II milk since these items are moved in final form. The classification of fluid cream products when disposed of in bulk form, however, is determinable only by following the movement of the bulk product to its subsequent use. Thus, it is necessary that fluid cream products that are transferred in bulk form from a pool plant to another plant be classified in a manner similar to that now used in classifying transfers of bulk fluid milk products.

The order now prescribes a procedure for classifying transfers of bulk fluid milk products from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant or an exempt governmental agency plant. To determine such classification, the nonpool plant's utilization must be assigned to its receipts of milk from each source. Some amplification of this procedure is appropriate to set forth clearly the priority for assigning the different types of plant use to the different sources of fluid milk products and bulk fluid cream products received at the nonpool plant.

Under the adopted assignment priorities, the first step is to assign the nonpool plant's Class I utilization to its receipts of packaged fluid milk products from all federally regulated plants. Such receipts should receive first priority on the nonpool plant's Class I use since all orders provide that such packaged transfers from a pool plant to an unregulated nonpool plant shall be classified as Class I milk. Thus, any Class I route disposition of the nonpool plant in the marketing area of a Federal order, and any transfers of packaged fluid milk products from the nonpool plant to plants fully regulated under such order, would be assigned, first, to the nonpool plant's receipts of packaged fluid milk products from plants fully regulated under such order and, second, to any such remaining packaged receipts from plants fully regulated under other Federal orders.

A similar assignment of any such remaining disposition (i.e., the aforesaid Class I route disposition and transfers of packaged fluid milk products) then would be made to the nonpool plant's receipts of bulk fluid milk products from pool plants and other order plants. Any other Class I disposition of packaged fluid milk products from the nonpool plant, such as route disposition in unregulated areas, would be assigned to any remaining unassigned receipts of packaged fluid milk products at the nonpool plant from plants fully regulated under any Federal order.

After these assignments, any Class I use at the nonpool plant that is attributable to the Class I allocation at a Federal order plant of fluid milk products transferred in bulk from the nonpool plant to the regulated plant would be assigned next. Such use would be assigned, first, to the nonpool plant's remaining unassigned receipts of fluid milk products from plants fully regulated under that order and, second, to any such remaining receipts from plants fully regulated under other orders.

Additional unassigned Class I utilization at the nonpool plant then would be assigned to the plant's receipts of Grade A milk from dairy farmers and unregulated nonpool plants that are determined to be regular sources of Grade A milk for the nonpool plant. Any remaining unassigned receipts of fluid milk products at the nonpool plant from plants fully regulated under any order would be assigned to any of the nonpool plant's remaining Class I utilization, then to its Class III utilization, and then to its Class II utilization.

Following these assignments, any receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants would be assigned to the nonpool plant's remaining unassigned utilization in each class. Such assignment would be made in sequence beginning with the lowest class.

In determining the classification of any transfers or diversions from a pool plant to a nonpool plant, the utilization of any transfers from the nonpool plant to another unregulated nonpool plant also must be established. In this case, the same assignment priorities just outlined should apply also at the second nonpool plant.

Certain changes should be made in the order concerning the classification of products transferred from a pool plant to a producer-handler. Under the revised classification plan, bulk fluid cream products transferred from a pool plant to a producer-handler should be assigned to the extent possible to the latter's Class III use, and then Class II use. If the producer-handler does not have enough utilization in these classes to cover such transfers, any remaining transfers should be classified as Class I milk.

As in the case of all other fluid milk products, such transfers of cream are now classified as Class I milk. Such classification tends to assure that producers do not carry for producer-handlers the burden of maintaining reserve supplies for the Class I sales of producer-handlers. With the removal of cream from the Class I classification, as adopted herein, a mandatory Class I classification of cream transfers to producer-handlers would not be necessary for this purpose.

The order also should provide that fluid milk products transferred from a pool plant to a producer-handler under another order be classified as Class I

milk. This classification now applies only with respect to such transfers made on an intramarket basis.

Under orders generally, producer-handlers, in their capacity as handlers, have been exempt from the pricing and pooling provisions of the various orders. In consideration of this exemption, each order requires a Class I classification of all fluid milk products that are transferred from a pool plant to a producer-handler as defined under that particular order. Inasmuch as the producer-handler exemption under each order is predicated on essentially the same basis, a Class I classification of milk transferred from a pool plant regulated under the South Texas order to a producer-handler as defined under another order would be in keeping with the general basis for producer-handler exemption.

In addition to the Class I classification of all fluid milk products transferred from a pool plant to a producer-handler, the South Texas order provides for a similar classification of all fluid milk products transferred to a governmental agency plant. Such plants are exempt from the pooling and pricing provisions of the order in much the same manner as producer-handlers. It is appropriate, therefore, that the adopted method for classifying bulk fluid cream products transferred to a producer-handler likewise apply to transfers of bulk fluid cream products to government-operated plants.

(f) *Classification of end-of-month inventory.* Under the revised classification plan, fluid milk products in either packaged or bulk form that are in a handler's end-of-month inventory should be classified as Class III milk. Such inventory should be subject in the following month to reclassification in a higher class. Ending inventory of fluid cream products, eggnog and yogurt, when held in bulk form, likewise should be classified in Class III and subject to reclassification. Such products held in packaged form at the end of the month should be classified as Class II milk.

Presently, the South Texas order classifies all ending inventories of fluid milk products in bulk form in the lowest class. A Class I classification applies to such inventories in packaged form. In the latter case, a handler's obligation for the Class I inventory is adjusted in the following month by whatever amount the Class I price in such month changes from the Class I price level initially applicable to the inventory. This assures that such inventory is priced on a current basis when disposed of on routes.

In the interest of establishing uniform classification provisions among the Texas orders, the present procedure for classifying end-of-month inventory should be changed to conform with that determined appropriate for the other orders. This will have no consequential impact on the market since either type of inventory classification procedure results over the long run in essentially the same pool obligation for handlers and the same returns to producers. Under the adopted procedure, ending inventories of fluid milk products would be subject in the following month to reclassification in a higher class, as determined through the allocation of a handler's receipts to his utilization. A charge to the handler at the difference between the Class III price for the preceding month and the Class I or Class II price, as applicable, for the current month would apply to any reclassified inventory. This is the same reclassification procedure that now applies under the order to inventories of fluid milk products in bulk form.

Fluid cream products in bulk form that are on hand at the end of the month likewise should be classified in Class III. As in the case of bulk milk, the final use of cream being held in bulk form is not necessarily apparent from that form. The cream must be followed to its ultimate use, which may be in any class. Accordingly, it is reasonable to classify any closing inventory of bulk cream in Class III and then apply a reclassification charge should the cream, as beginning inventory the following month, be allocated to a higher class.

Fluid cream products, yogurt, and eggnog that are on hand in packaged form at the end of the month should be classified in Class II, the class of expected ultimate use, rather than in Class III as would be the case for ending inventories of such products in bulk form. The higher classification will accommodate the treatment adopted herein whereby such products that are received at a pool plant in packaged form and disposed of in the same packages would be permitted to "pass through" the plant without any pool obligation or down-allocation. In this connection, the ending Class II inventory, as Class II inventory on hand at the beginning of the following month, would be allocated in the following month directly to the handler's Class II utilization.

For the first month that the revised classification plan is effective, certain transitional provisions relating to inventory should apply. This is necessary since the classification of ending inventory in the month preceding the order changes would differ from the classification of inventory under the new plan.

Under the new plan, beginning inventories of fluid milk products and, for the first month, all fluid cream products would be allocated to the extent possible to Class III. This allocation assumes that such inventories were priced at the lowest class price in the preceding month. Since such inventories in packaged form will have been classified as Class I milk and priced at the preceding month's Class I price, however, handlers should receive a credit on such packaged inventories equal to the difference between the Class I and Class II prices for the preceding month. If a higher classification results through the allocation procedure, the appropriate reclassification charge would apply.

Also under the new plan, beginning inventories of fluid cream products in packaged form normally would be allocated directly to a handler's Class II utilization. Such allocation assumes that the products were priced at the Class II price in the preceding month. As just described, an adjustment would be made in the first month under the new plan which would result in such inventories, in effect, having been priced in the preceding month at the Class III price. Therefore, such inventories should be allocated in the first month to the extent possible to Class III, as in the case of inventories of fluid milk products and bulk fluid cream products. A reclassification charge should apply if a higher classification results.

(g) *Classification of shrinkage, milk dumped, and milk disposed of for animal feed.* For purposes of uniformity among orders, the South Texas order provisions for classifying skim milk and butterfat dumped, disposed of for animal feed, or in shrinkage should conform to those determined appropriate for the other Texas orders. This will not result in any significant classification changes.

As at present, shrinkage would continue to be classified under the new three-class system in the lowest class (subject as now to certain limitations). Also, dumpage and animal feed dispositions would continue to be included in the lowest class. The products covered by the dumpage and animal feed provisions would be limited to fluid milk products, fluid cream products, eggnog, yogurt and similar filled products. Because of their relatively limited shelf life, it is these products that are commonly found in route returns and for which handlers realize little, if any, monetary value. Such provisions also would apply to skim milk being used in the manufacture of cottage cheese but which must be dumped because of a failure in the culturing process.

(h) *Allocation of receipts to utilization.* In adopting a revised classification plan for the South Texas order, conforming changes must be made in the provisions that prescribe how a handler's allocated to his utilization for the purreceipts from different sources shall be pose of classifying producer milk. Since the order now provides for only two classes of utilization, changes are necessary to provide for the allocation of receipts to three classes. Also, the order must be changed with respect to the allocation of beginning inventories, as previously described.

The adoption of three use classes requires a new consideration of how other source milk shall be allocated to a handler's utilization of milk. Under the present order, other source milk is allocated in most cases to a handler's surplus uses to the extent possible, regardless of how it actually may have been used. The producers who are relied upon for a regular supply of milk for the local fluid market thus receive the highest possible classification of their milk. Depending on the supply conditions, milk from unregulated supply plants and other Federal order plants is permitted to share in varying degrees with local producer milk in the higher value of the handlers' Class I sales.

In conjunction with the revised classification plan, however handlers using

certain types of other source milk (whether in the form received or in reconstituted form) in the processing of Class II products should be permitted to have such other source milk allocated directly to their Class II uses. Under the plan adopted herein, such other source milk to which direct allocation could apply would be limited to milk products (such as nonfat dry milk and condensed milk or skim milk) that are not fluid milk products or fluid cream products.

In establishing a new intermediate price class, it is not intended that this outlet for producer milk necessarily be reserved for local producers. This new use class merely recognizes that some additional value attaches to producer milk used by regulated handlers in the Class II products. Pricing this milk at a level above the Class III price serves also to reduce the burden on the Class I price of attracting a supply of producer milk for the Class I market. It is not intended that producer returns be enhanced for the purpose of also attracting a full supply of producer milk for handlers' Class II uses. Accordingly, no obligation to the pool (commonly known as a compensatory payment) would be imposed under the revised classification plan on any other source milk which regulated handlers may use in Class II or on any Class II product that may be distributed in the market by nonpool plants, either directly on routes or through pool plants.

As long as the Class II price for producer milk remains in proper relationship with the cost of alternative supplies, it is not expected that this direct allocation of nonfluid other source milk to Class II will induce handlers to use other source milk in preference to producer milk to any greater extent than presently for processing Class II products. Under the adopted Class II price, producers would represent in most circumstances the most economical source of milk for Class II use.

No provision should be made for the direct allocation to a handler's Class II utilization of other source milk received in fluid form. Unlike the handling of nonfat dry milk, it would not be unusual for a handler to commingle in his plant receipts of fluid other source milk with his receipts of producer milk. In this circumstance, it would not be possible to know just how much of the other source milk may have been used in the processing of a Class II product. The difficulty which a handler would have in demonstrating that he actually used fluid other source milk in a Class II product, and the administrative difficulty in verifying such claimed use, warrants the allocation of such milk in essentially the same manner as now provided by the order.

In this connection, it should be noted that under the revised classification plan the order would provide for the specific allocation to a handler's Class II and Class III utilization of any receipts of bulk fluid milk products from an other order plant or an unregulated supply plant for which the handler requests a Class II or Class III classification. Such receipts would be allocated to the extent possible first to the handler's Class III utilization and then to his Class II utilization. This would be the case even if a Class II classification were requested by the handler.

The allocation procedure now used for handlers who operate two or more pool plants regulated under the South Texas order should be modified somewhat to conform with the procedure determined appropriate for other orders. The order should provide that for purposes of allocating a multiple-plant handler's receipts to his utilization, the operations at each of his pool plants shall be considered separately. As is the case now, however, those receipts of other source milk from unregulated supply plants and other Federal order plants eligible to share with producer milk in a handler's Class I utilization should be allocated on the basis of the handler's total plant system. This procedure is quite similar to that used under the present order. The order now requires, however, that if there are receipts of other source milk at any one of the plants that are to be prorated with producer milk to the plant's Class I utilization, all allocations of the handler's receipts to his utilization shall be done on the basis of his total system.

Conditions in the South Texas market do not require the use of an allocation procedure that differs from the procedure used in other Texas markets. Handlers may be subject at different times to the regulatory provisions of different orders. Applying the allocation provisions uniformly among all orders will reduce unnecessary regulatory differences that may be experienced by these handlers. There would be little, if any, change in a handler's total obligation under the order, or in producer returns, from applying the adopted allocation procedure in this market.

As indicated, the order now provides that certain receipts of milk from unregulated supply plants and other Federal order plants shall share in varying degrees with local producer milk in the receiving handler's Class I utilization at all of his pool plants combined. This procedure, which resulted from the so-called "compensatory payment" decisions issued in 1964 and which was included in the South Texas order when it was later promulgated, should be continued.[5] To implement this procedure, several additional allocation steps must be provided in this order.

The additional allocation steps establish a procedure whereby the milk from unregulated supply plants and other order plants will continue to be classified on the basis of the handler's total system, but will be assigned to classes at the pool plant of actual receipt. Under this procedure, the situation may arise where there is not enough utilization in a specific class at the plant of actual receipt to which such other source milk must be assigned (as determined from receipts and utilization of his entire system). In this case, an accounting technique is used for increasing the utilization in such class at the plant of actual receipt and making a corresponding reduction in the same class at one or more of the other pool plants in this system. This technique does not result, however, in changing the amount of milk to be accounted for at each plant, or the classification of milk within the handler's entire system.

(i) *Reports.* The proposed changes in the classification of milk are not expected to require any major change in the amount of information to be submitted by handlers in their monthly reports of receipts and utilization. The reporting provisions should be changed, however, to reflect the new categories of information that the market administrator will need in administering the order. These changes stem largely from the proposed reclassification of cream and the revised accounting methods necessary for implementing a three-class classification scheme.

As proposed herein, the reporting provisions would be stated in slightly less detail than is now the case. The market administrator would have, nevertheless, no less authority than at present to obtain through handler reports, in the detail and on forms prescribed by the market administrator, any information the latter believes is necessary for administration of the order.

(j) *Changing the butterfat differentials.* A single butterfat differential should apply under the order for adjusting prices to the actual butterfat content of the milk being priced. This differential should be the Chicago butter price multiplied by 0.115, rounded to the nearest one-tenth cent. The Chicago butter price, now used under the order, is the simple average of the wholesale selling prices (using the midpoint of any price range as one price) per pound of Grade A (92-score) bulk butter at Chicago as reported for the month by the U.S. Department of Agriculture.

Various butterfat differentials are now provided by the South Texas order for adjusting Class I, Class II and uniform prices. The Class I butterfat differential is computed by multiplying the Chicago butter price for the preceding month by 0.125. The Class II differential is based on the butter price for the current month times a factor of 0.115. The butterfat differential used in adjusting the uniform price to producers is the average of the butterfat differentials for each class weighted by the proportion of producer butterfat in each class.

Use of the single butterfat differential adopted herein will coordinate the pricing of milk under the South Texas order with such pricing under the other Texas orders. Unless a common butterfat differential is used, there would not be the complete uniformity in pricing among orders that is intended under a uniform classification plan.

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[5] Official notice is taken of the Assistant Secretary's decisions issued on June 19, 1964 (29 FR 9002, 9110, and 9213) with respect to all milk orders then in effect.

Under the concept that all class prices should be adjusted by the same butterfat differential, it is necessary that the order provide only for a producer butterfat differential. No handler butterfat differentials for adjusting class prices need be set forth as such in the order, nor is there any need to pool the value of butterfat in each class. All producer "differential" butterfat received by handlers would be priced the same to all handlers regardless of the class in which the butterfat is used. There is no reason for handlers to be less aware under this procedure of what the cost of milk is in each class than under the present order provisions. Any adjustment of class prices that a handler may wish to make to reflect a certain butterfat content can be done merely by using the butterfat differential used to adjust pay prices to producers.

(k) *Uniform equivalent price provisions.* The "equivalent price" provision of the order should be changed to conform with the equivalent price provision determined appropriate for the other Texas orders. This will further assure uniformity of prices among the several orders.

An equivalent price provision is necessary to provide a price, or price constituent, in cases where published prices, quotations or other pricing constituents as may be prescribed by the order are not available.

If there were insufficient trading during the month in butter, for example, or if the specific butter price quotations were discontinued, the prescribed butterfat differential could not be computed without an equivalent price provision. By providing for the determination of an equivalent price as needed, the Department is in a position to draw on comprehensive resource data to assure that the computation of the butterfat differential, as well as the basic formula price and class prices, is not interrupted by the contingencies cited.

In providing for a determination of equivalent price, the same objective is sought for each order. It is appropriate, therefore, to provide for identical provisions in each order. Then, if a determination has to be made for more than one order simultaneously, there would be no question as to the applicability of the determination to each order.

Accordingly, the equivalent price provision in the order should be stated as follows:

"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."

6. *Need for omitting the recommended decision.* The timely execution of the function of the Secretary concerning Issue 5 does not require the omission of a recommended decision and opportunity for exceptions thereto.

Proponents of the revised classification plan for the South Texas order urged that the recommended decision be omitted to assure that such plan could be made effective concurrently with the effectuation of similar plans for the other Texas markets. Final action on the proposed amendments for the other Texas orders, however, has not yet been taken, and no date when such amendments, if issued, would become effective has been announced. It is concluded that the issuance of a recommended decision on the South Texas classification issue will not prevent the amendment of all the Texas orders at the same time.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this partial decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement [8] and Order

Annexed hereto and made a part hereof are two documents, a marketing agreement [8] regulating the handling of milk, and an order amending the order regulating the handling of milk in the South Texas marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the Federal Register. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

February 1974 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the South Texas marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on April 24, 1974.

John Damgard,
Deputy Assistant Secretary.

Order [1] Amending the Order, Regulating the Handling of Milk in the South Texas Marketing Area

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement

[8] Marketing agreement filed as part of the original document.

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

and to the order regulating the handling of milk in the South Texas marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the South Texas marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the partial recommended decision issued by the Deputy Administrator, Regulatory Programs, on March 21, 1974 and published in the FEDERAL REGISTER on March 27, 1974 shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

PART 1121—MILK IN SOUTH TEXAS MARKETING AREA

Subpart—Order Regulating Handling

GENERAL PROVISIONS

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

GENERAL PROVISIONS

§ 1121.1 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

§ 1121.2 South Texas marketing area.

"South Texas marketing area", hereinafter called the "marketing area", means all territory, including all piers, docks, and wharves connected therewith, and all craft moored thereat, and territory occupied by Government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments, within the boundaries of the following counties, all in the State of Texas:

Angelina.	Liberty.
Austin.	Madison.
Brazoria.	Matagorda.
Brazos.	Montgomery.
Chambers.	Nacogdoches.
Colorado.	Newton.
Fort Bend.	Orange.
Galveston.	Polk.
Grimes.	San Jacinto.
Hardin.	Trinity.
Harris.	Tyler.
Houston.	Walker.
Jackson.	Waller.
Jasper.	Washington.
Jefferson.	Wharton.

§ 1121.3 Route disposition.

"Route disposition" means any delivery (including any delivery by a vendor or disposition at a plant store) of fluid milk products classified as Class I milk, other than a delivery to a plant.

§ 1121.4 Plant.

"Plant" means the land, buildings, facilities, and equipment 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 for route disposition shall not be a plant under this definition.

§ 1121.5 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 there is route disposition of fluid milk products in the marketing area.

§ 1121.6 Supply plant.

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

§ 1121.7 **Pool plant.**

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) Any distributing plant from which during the month there is:

(1) Route disposition, except filled milk, in the marketing area equal to 10 percent or more of the receipts of Grade A milk at such plant; and

(2) Total route disposition, except filled milk, equal to 50 percent or more of the receipts of Grade A milk at such plant.

(b) A supply plant:

(1) During any month in which 50 percent or more of the receipts of Grade A milk from dairy farmers and handlers pursuant to § 1121.9(c) at such plant is moved as fluid milk products, except filled milk, in bulk to pool distributing plants; or

(2) During each of the months of January through August, if such plant was a pool plant pursuant to paragraph (b)(1) of this section during each of the immediately preceding months of September through December, unless the operator of such plant had filed with the market administrator before the first day of any month a written request that such plant not be a pool plant for each month through August during which it does not otherwise qualify as a pool 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.

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

(1) A producer-handler plant;

(2) A governmental agency plant;

(3) A plant meeting the requirements of 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 the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its route disposition is made in such other marketing area unless, notwithstanding the provisions of this subparagraph, it is regulated under such other order;

(4) A plant meeting the requirements of 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, during the month in this marketing area than in such other marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(5) A plant meeting the requirements of paragraph (b) of this section which also meets the pooling requirements of another Federal order, and either qualifies as a fully regulated distributing plant under such other Federal order subject to paragraph (d)(3) and (4) of this section, or from such plant greater qualifying shipments are made as a supply plant during the month to plants regulated under such other order than are made to plants regulated under this part, except that this subparagraph shall not apply during the months of January through August if such plant retains automatic pooling status under this part pursuant to paragraph (b)(2) of this section.

§ 1121.8 **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 Federal 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 a nonpool plant from which fluid milk products are moved to a pool plant during the month but which is neither an other order plant, a governmental agency plant, nor a producer-handler plant.

(d) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant, a governmental agency plant, nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units (other than to pool plants) in the marketing area during the month.

(e) "Governmental agency plant" means a plant owned and operated by a governmental agency or establishment which processes or packages milk or filled milk that is distributed in the marketing area. Such plant shall be exempt from all provisions of this part.

§ 1121.9 **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 which it causes to be diverted pursuant to § 1121.13 for the account of such cooperative association;

(c) Any cooperative association with respect to milk of its producer members which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by or under contract to, such cooperative association;

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

(e) A producer-handler; or

(f) Any person in his capacity as the operator of an other order plant from which there is route disposition in the marketing area.

§ 1121.10 **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 5,000 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.

§ 1121.11 **[Reserved]**

§ 1121.12 **Producer.**

(a) Except as provided in paragraph (b) of this section, "producer" means any person 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; or

(2) Diverted by a handler for his account pursuant to the provisions of § 1121.13.

(b) "Producer" shall not include:

(1) A governmental agency which operates a plant exempt pursuant to § 1121.8(e);

(2) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(3) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1121.44(a)(8)(iii) and the corresponding step of § 1121.44(b); and

(4) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1121.13 **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 handler described in § 1121.9(c); and

(3) Diverted by the operator of such pool plant to a nonpool plant that is not a producer-handler plant nor a governmental agency 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 that is not a producer-handler plant nor a governmental agency 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 producers' farms as a handler described in § 1121.9(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 in excess of 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 in excess of 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 §§ 1121.52 and 1121.75, diverted milk shall be priced at the location of the nonpool plant to which diverted.

§ 1121.14 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 products specified in § 1121.40(b)(1) from any source other than producers, handlers described in § 1121.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1121.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1121.40(b)(1), and products produced at the plant during the same month) from any source 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 § 1121.40(b)(1)) for which the handler fails to establish a disposition.

§ 1121.15 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 § 1121.40 (b) or (c)(1) (i) through (v) 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.

§ 1121.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1121.17 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).

§ 1121.18 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"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members.

Handler Report

§ 1121.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1121.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1121.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1121.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1121.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1121.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1121.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1121.32 Other reports.

(a) Each handler who causes milk to be diverted for his account directly from producers' farms 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 such diversion, and the plant to which such milk is to be diverted.

(b) In addition to the reports required pursuant to paragraph (a) of this section and in §§ 1121.30 and 1121.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1121.40 Classes of utilization.

Except as provided in § 1121.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1121.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraph (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) 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; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

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

(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;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(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; and

(vi) Any product not otherwise specified in 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 fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1121.15; and

(6) In shrinkage assigned pursuant to § 1121.41(a) to the receipts specified in § 1121.41(a)(2) and in shrinkage specified in § 1121.41 (b) and (c).

§ 1121.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1121.30, 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 or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1121.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1121.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

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

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products 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 § 1121.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1121.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form

of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1121.44(a)(12) and the corresponding step of § 1121.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1121.44(a)(7) or the corresponding step of § 1121.44(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 § 1121.44(a)(11) or (12) or the corresponding steps of § 1121.44(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 § 1121.40.

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

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

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

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a governmental agency 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 (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1121.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

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

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

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

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

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

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

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

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

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

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

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

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

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

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization

using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1121.43 General classification rules.

In determining the classification of producer milk pursuant to § 1121.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1121.30 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 § 1121.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1121.40, 1121.41, and 1121.42;

(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 § 1121.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1121.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1121.9(a) for each of his pool plants separately and of each handler described in § 1121.9 (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 § 1121.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a) (7) (vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1121.40(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) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1121.40(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. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(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, any product specified in § 1121.40(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, if paragraph (a) (5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1121.40(b) (1) that was not subtracted pursuant to paragraph (a) (4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from a governmental agency plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2) of this section; 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 paragraph (a) (2) and (7) (v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2), (7) (v), and (8) (i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a) (8) (ii) (a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess 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 the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(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 (excluding any duplication of Class I utilization resulting from reported Class I transfers between 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, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a) (7) (vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7) (vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1121.40(b) (1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a) (5) and (7) (i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a) (1) of this section;

(11) Subject to the provisions of paragraph (a) (11) (i) and (ii) 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 (excluding any duplication of utilization in each class resulting from transfers between 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 paragraphs (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 Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess 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 the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be substracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) 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 § 1121.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between 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;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess 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 the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1121.42(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 paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1121.45 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 § 1121.44 (a)(12) and the corresponding step of § 1121.44(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 § 1121.44 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

§ 1121.50 Class prices.

Subject to the provisions of § 1121.52, the class prices for the month per hun-

dredweight 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 $2.68.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1121.51 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.

§ 1121.52 Plant location adjustments for handlers.

(a) For that milk which is received from producers at a pool plant located (1) in Fayette County, Tex., or (2) north of U.S. Highway 90 and 60 miles or more from the nearer of the city halls in Beaumont and Houston, Tex., by the shortest hard-surfaced highway distance, as determined by the market administrator, and which is classified as Class I milk subject to the limitations of paragraph (c) of this section, the price specified in § 1121.50(a) shall be reduced 1.5 cents per 10 miles of distance or fraction thereof that such plant is located from the Houston city hall by shortest hard-surfaced highway distance as determined by the market administrator: *Provided,* That the location adjustment at a plant located in Gregg, Harrison, or Smith Counties, Tex., shall be minus 30 cents and that the location adjustment pursuant to this paragraph for any plant located in Zone I as defined in the North Texas order, Part 1126, shall not result in a price less than the applicable Class I price at such plant location pursuant to the North Texas order.

(b) For that milk which is received from producers at a pool plant which is beyond 60 miles from the nearer of the city halls in Beaumont and Houston, Tex., by the shortest hard-surfaced highway distance, as determined by the market administrator, and south of the northern boundaries of the Texas counties of Matagorda, Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, La Salle, and Dimmit and which is classified as Class I milk subject to the limitations of paragraph (c) of this section, the price specified in § 1121.50(a) shall be increased by any amount by which such price is less than the applicable Class I price at the same location pursuant to Part 1130 regulating the handling of milk in the Corpus Christi marketing area.

(c) 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 § 1121.9(c), plus 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.

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

§ 1121.53 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.

§ 1121.54 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

§ 1121.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1121.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1121.44 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 § 1121.44(a)(14) and the corresponding step of § 1121.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1121.74, 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 hundred-weight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1121.44 (a)(9) and the corresponding step of § 1121.44(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 § 1121.44(a)(7) (i) through (iv) and the corresponding step of § 1121.44 (b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1121.44(a)(7) (v) and (vi) and the corresponding step of § 1121.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1121.44(a)(11) and the corresponding step of § 1121.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class II price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1121.40 (b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

§ 1121.61 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 § 1121.60 for all handlers who have made the reports prescribed in § 1121.30 for the month and who have made the payments required pursuant to § 1121.71 for the preceding month;

(b) Add not less than one-fourth of the unobligated cash balance on hand in the producer-settlement fund;

(c) Add the aggregate of the values of the minus location adjustments pursuant to § 1121.75, and subtract the aggregate of the values of the plus location adjustments pursuant to § 1121.75;

(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 § 1121.60(f); and

(f) Subtract not less than 4 cents nor more than 5 cents.

§ 1121.62 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 12th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

§ 1121.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit all payments made by handlers pursuant to §§ 1121.71, 1121.76, and 1121.77, subject to the provisions of § 1121.78, and from which he shall make all payments to handlers pursuant to §§ 1121.72 and 1121.77.

§ 1121.71 Payments to the producer-settlement fund.

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1121.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1121.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1121.60(f).

(b) On or before the 25th day after the end of the month each person 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 marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(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.

§ 1121.72 Payments from the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1121.71(a)(2) exceeds the amount computed pursuant to § 1121.71(a)(1). If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. Any amount due to a handler pursuant to this section may be reduced by the amount of any unpaid balances due the market administrator from such handler pursuant to §§ 1121.71, 1121.77, 1121.78, 1121.85, and 1121.86.

§ 1121.73 Payments to producers and to cooperative associations.

Each handler shall make payment as follows:

(a) On or before the 15th day after the end of the month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) of this section, at not less than the uniform price for such month computed pursuant to § 1121.61, as adjusted pursuant to §§ 1121.74 and 1121.75, and less the amount of payment made pursuant to paragraph (b) of this section. If by such date such handler has not received full payment for such month pursuant to § 1121.72, he may reduce his total payments to all producers uniformly by not more than the amount of reduction in payments from the market administrator. He shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator.

(b) On or before the 25th day of each month, to each producer (1) for whom payment is not made pursuant to paragraph (c) of this section, and (2) who has not discontinued delivery of milk to such handler, a partial payment for milk received from such producer during the first 15 days of such month computed at not less than the Class III price for 3.5 percent milk of the preceding month, without deduction for hauling.

(c) On or before the 13th and 23d days of each month, in lieu of payments pursuant to paragraphs (a) and (b) of this section respectively, to a cooperative association which so requests, with respect to producers for whose milk such cooperative association is authorized to collect payments, an amount equal to the sum of the individual payments otherwise payable to such producers. Such payment shall be accompanied by a statement showing for each producer the items required to be reported pursuant to § 1121.31.

(d) As follows, to each cooperative association for milk for which it is the handler pursuant to § 1121.9(c):

(1) On or before the 23d day of the month, a partial payment for milk received during the first 15 days of such month, at not less than the amount specified in paragraph (b) of this section; and

(2) On or before the 13th day of the following month, in final settlement, the value of such milk received during the month, at the applicable uniform price, as adjusted pursuant to §§ 1121.74 and 1121.75, less the amount of payment made pursuant to paragraph (d)(1) of this section.

(e) On or before the 13th day after the end of the month, for milk received from the pool plant of a cooperative association, to such cooperative association not less than the value of such milk as classified pursuant to § 1121.42(a) at the respective class prices, as adjusted by the butterfat differential specified in § 1121.74, that are applicable at the location of the transferee-handler's pool plant.

§ 1121.74 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.

§ 1121.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payments pursuant to § 1121.73, the uniform price computed pursuant to § 1121.61 to be paid for such milk received at a pool plant at which a location adjustment pursuant to § 1121.52 (a) or (b) applies will be subject to a location adjustment (plus or minus) equal to that specified in such section.

(b) The uniform price applicable to other source milk shall be subject to the same adjustments applicable to the uniform price under paragraph (a) of this section, except that the adjusted uniform price plus 5 cents shall not be less than the Class III price.

§ 1121.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1121.30(b) and 1121.31 (b) the information necessary for making the computations, such handler may

elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant;

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price plus 5 cents shall not 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 § 1121.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1121.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1121.60 for such handler shall include, in lieu of the value of other source milk specified in § 1121.60(f) less the value of such other source milk specified in § 1121.71(a)(2)(ii), a value of milk determined pursuant to § 1121.60 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 § 1121.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1121.30(b) and 1121.31(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 § 1121.60 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, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1121.74, 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, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1121.74, 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.

§ 1121.77 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:

(a) The market administrator from such handler;

(b) Such handler from the market administrator; or

(c) Any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

§ 1121.78 Changes on overdue accounts.

The unpaid obligation of a handler pursuant to §§ 1121.71, 1121.76, 1121.77, 1121.85, or 1121.86 shall be increased three-fourths of 1 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 unpaid obligation that was determined at a date later than that previously 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

§ 1121.85 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 13th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including that described in § 1121.13(a)(2) and such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1121.44(a)(7) and (11) and the corresponding steps of § 1121.44(b), except such other source milk that is excluded from the computations pursuant to § 1121.60 (d) and (f); and

(c) Route disposition from a partially regulated distributing plant in the marketing area that exceeds the skim milk and butterfat subtracted pursuant to § 1121.76(a)(2).

§ 1121.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 1121.73, shall deduct 5 cents per hundredweight or such

amount not exceeding 5 cents per hundredweight as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such monies shall be used by the market administrator to sample, test, and check the weights of milk received and to provide producers with market information.

(b) In the case of producers for whom a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler 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 association and such producers and on or before the 15th day after the end of such month pay such deductions to the cooperative association rendering such services, accompanied by a statement showing the quantity of milk for which deduction was computed for each such producer.

ADVERTISING AND PROMOTION PROGRAM

§ 1121.110 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 § 1121.121(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, and 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.

§ 1121.111 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 § 1121.113(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 § 1121.113(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 persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1121.113(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.

§ 1121.112 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.

§ 1121.113 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 § 1121.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association having less than the required 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.

§ 1121.114 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.

§ 1121.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1121.110;

(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 §§ 1121.110 and 1121.117.

§ 1121.116 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 §§ 1121.110 and 1121.117;

(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) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(f) 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

(g) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1121.117 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 appro-

priate 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.

§ 1121.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1121.121(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.

§ 1121.119 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 wilful misconduct, gross negligence, or those which are criminal in nature.

§ 1121.120 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 15 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 15th 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.

§ 1121.121 Duties of the market administrator.

Except as specified in § 1121.116, 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 § 1121.113(c).

(b) Set aside the amounts subtracted under § 1121.61(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 paragraph (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 § 1121.61(d).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1121.120. 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 § 1121.61(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 (§§ 1121.110 through 1121.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1121.122 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 § 1121.70.

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 53]

CANNED TOMATOES

Proposed Amendments to Standards of Identity, Quality, and Fill of Container

The Food and Agriculture Organization/World Health Organization Codex Alimentarius Commission has submitted to the United States for consideration for acceptance a "Recommended International Standard for Canned Tomatoes." The United States, as a member of the Food and Agriculture Organization of the United Nations and of the World Health Organization, is under obligation to consider all Codex standards. The rules of procedure of the Codex Alimentarius Commission state that a Codex standard may be accepted by a participating country in one of three ways: full acceptance; target acceptance; and acceptance with minor deviations. A participating country which concludes that it cannot accept the standard in any of these ways is requested to indicate the reasons for the ways in which its requirements differ from the Codex standard. Members of the Comimssion are requested to notify the Secretariat of the Codex Alimentarius Commission—Joint FAO/WHO Food Standards Programme, FAO, Rome, Italy, of their decision. For many years the United States has had definitions and standards of identity (21 CFR 53.40), quality (21 CFR 53.41), and fill of container (21 CFR 53.42) for canned tomatoes, as promulgated by the Commissioner of Food and Drugs. The U.S. standards differ in several respects from the Recommended International Standard. The basis of this proposal to amend the U.S. canned tomato standards is the fact that, in the opinion of the Commissioner of Food and Drugs, it will benefit consumers and facilitate international trade to adopt as far as practicable the recommended worldwide standard for canned tomatoes hereinafter referred to as the Codex standard.

The Codex standard references the Codex "Sampling Plans for Prepackaged Foods, 1969," that were developed by the Codex Committee on Processed Fruits and Vegetables and are being considered by the Codex Committee on Sampling and Analysis. There are no sampling plans in any of the effective U.S. food standards. A sampling plan was published in the FEDERAL REGISTER of October 5, 1972 (37 FR 21112) in the proposed revision of the U.S. standard for canned sweet corn (21 CFR 51.20). The Codex sampling plans, although they are included by reference in the Codex standard, have not reached the final step of development and therefore may be subject to further modification. The Commissioner, however, believes that this is an opportune time to elicit comments on sampling plans. The Commissioner proposes to limit the sampling plans to Codex Inspection Level II which is appropriate where disputes, en-

forcement or need for better lot estimate is necessary. Definitions for "Lot" and "Sample unit" have been expanded to make them more applicable to a wider range of size of primary containers. In addition, the definition for "Defective" has been reworded to apply directly to the proposed sampling plans for canned tomatoes. The Commissioner would consider a lot acceptable for quality (except that peel and blemishes be based on an average of all containers examined) and fill of container factors (except minimum drained weight when specified for certain styles of tomatoes) when the number of "defectives" does not exceed the stated "acceptance number." Concerning minimum drained weight of certain styles of tomatoes, the Commissioner proposes that it be based on the average drained weight of the sample drawn according to the proposed sampling plans. He proposes that the average shall not be less than 50 percent of the water capacity of the container. The Commissioner recognizes that basing the minimum drained weight for certain styles of tomatoes on sample average will allow for considerable variability among the individual cans within a given lot. Consequently, he proposes that a container having a drained weight of less than 45 percent shall be considered a defective unit as a specific interpretation of the proviso by Codex that there is no unreasonable shortage in individual containers.

The units of measurements in the U.S. standard of quality are stated in pounds and inches, whereas the Codex standard uses only the metric system. The Commissioner recognizes that the International (Metric) System is generally used throughout the world, and in the United States for technical analysis, and that it may eventually be adopted by this country for common usage. The Commissioner therefore proposes that the International (Metric) System be used in the U.S. standards of quality and fill of container with the equivalent units of the U.S. customary system shown parenthetically.

The Codex standard also includes hygiene requirements and certain basic labeling requirements which are not considered a part of food standards under section 401 of the Federal Food, Drug, and Cosmetic Act (the legal basis for the promulgation of food standards) but which are dealt with by other sections of that act.

Amendment of the U.S. standards of identity, quality, and fill of container for canned tomatoes will be based upon consideration of the following Codex standard, together with comments and supporting data received, and other available information.

[CAC/RS 13–1969]

Recommended International Standard for Canned Tomatoes

1. DESCRIPTION

1.1 *Product definition.* Canned tomatoes is the product (a) prepared from washed, ripened tomatoes, conforming to the characteristics of the fruit of Lycopersicum esculentum P. Mill, of red or reddish varieties (cultivars) which are clean and which are substantially sound, (b) packed with or without a suitable liquid packing medium (other than added water), and seasoning ingredients appropriate to the product, and (c) processed by heat, in an appropriate manner, before or after being sealed in a container, so as to prevent spoilage. The tomatoes shall have had the stems and calices removed and shall have been cored, except where the internal core is insignificant as to texture and appearance.

1.2 *Varietal type.* Tomatoes of distinct varietal groups with respect to shape or other similar physical characteristics may be designated as:

1.2.1 Round: globular or semi-globular shape.

1.2.2 Pear or Egg or Plum: elongated shape.

1.3 *Styles.* Canned tomatoes in these styles are normally prepared with peel removed; if the peel is not removed, the style is considered additionally as "Unpeeled":

1.3.1 Whole.

1.3.2 Whole and Pieces.

1.3.3 Pieces.

1.3.4 Diced.

1.3.5 Sliced.

1.3.6 Wedges.

1.4 *Types of pack.*

1.4.1 Regular Pack—with a liquid medium added.

1.4.2 Solid Pack—without any added liquid.

1.4.3 Flavoured or Stewed or Seasoned—packed with vegetable ingredients, such as onions, peppers, and celery, not exceeding 10 percent m/m of the product.

2. ESSENTIAL COMPOSITION AND QUALITY FACTORS

2.1 *Packing media.* Canned tomatoes may be packed in the following packing media:

2.1.1 *Juice.* The unconcentrated, undiluted liquid from ripened tomatoes.

2.1.2 *Residual material.* The liquid strained from the residue from preparing tomatoes for canning.

2.1.3. *Puree or pulp.* Tomato puree or pulp (concentrated tomato juice).

2.1.4 *Paste.* Tomato paste (highly concentrated tomato liquid).

2.2 *Other ingredients.*

2.2.1 Spices, spice oils, seasoning, starch.

2.2.2 Natural vegetable products such as onion, peppers, celery, and basil leaf, not exceeding in total 10 percent m/m of the product.

2.2.3 Salt.

2.2.4 When acidifying agents are used, sucrose, dextrose, and dried glucose syrup.

2.3 *Quality criteria.*

2.3.1 *Definitions.*

2.3.1.1 *Whole or almost whole.* A tomato of any size in which the contour is not materially altered by coring or trimming; the unit may be readily restored to practically its original conformation; it may be slightly cracked or split but not to the extent that there is a material loss of placenta.

2.3.1.2 *Objectionable core material.* Internal core material of tough and fibrous texture or tomato tissue representing the tomato core that is definitely objectionable as to appearance and edibility.

2.3.1.3 *Blemishes.* Areas which are abnormal and contrast strongly in colour and/or texture with the normal tomato tissue and which would normally be removed in the preparation of tomatoes for culinary use.

2.3.1.4 *Extraneous plant material.* Tomato leaves, stems, calyx bracts, and similar plant material.

2.3.1.5 *Peel (or skin).* Considered a defect except in "Unpeeled" styles; it is that which adheres to the tomato flesh or is found loose in the container.

2.3.2 *Colour.* The colour of the drained tomatoes shall have normal colour characteristics for tomatoes that have been properly prepared and properly processed. Canned tomatoes containing other permitted ingredients shall be considered to be of characteristic colour when there is no abnormal discolouration for the respective ingredients used.

2.3.3 *Flavour.* Canned tomatoes shall have a normal flavour and odour free from flavours or odours foreign to the product and canned tomatoes with special ingredients shall have a flavour characteristic of that imparted by the tomatoes and the other substances used.

2.3.4 *Size or wholeness.* Size or wholeness, as such, is only a factor in the style designated as "Whole" style. Canned tomatoes of "Whole" style shall consist of not less than 80 percent m/m of drained tomatoes in whole or almost whole units, except that in any container there may be one unit that is not whole or almost whole.

2.3.5 *Allowances for defects.* The finished product shall be prepared from such materials and under such practices that it shall be substantially free from objectionable core material and extraneous plant material and shall not contain excessive defects whether specifically mentioned in this standard or not. Certain common defects shall not be present in amounts greater than the following limitations:

2.3.5.1 Peel (except in "Unpeeled" styles): Average—not more than 15 square centimetres aggregate area per kg of total contents.

2.3.5.2 Blemishes: Average—not more than 3.5 square centimetres aggregate area per kg of total contents.

2.3.5.3 Mould Count (in accordance with the A.O.A.C. Method referenced in subsection 7.4). The juice or liquid portion may not have more than 50% positive fields.

2.3.6 *Classification of "defectives".* A container that fails to meet one or more of the applicable quality requirements as set out in subsections 2.3.2 through 2.3.5 (except peel and blemishes which are based on an average) shall be considered a "defective".

2.3.7 *Acceptance.* A lot will be considered as meeting the applicable quality requirements referred to in subsection 2.3.6 when:

(a) For those requirements which are not based on averages, the number of "defectives", as defined in sub-section 2.3.6, does not exceed the acceptance number (c) of the appropriate sampling plan (AQL–6.5) in the Sampling Plans for Prepackaged Foods (1969); and

(b) The requirements which are based on sample averages are complied with.

3. FOOD ADDITIVES

3.1 Acidifying Agents:

	Maximum level of use
Acetic acid Citric acid Lactic acid Malic acid L-Tartaric acid	Not limited.

3.2 Firming Agents:

	Maximum level of use
Calcium chloride or other safe and suitable calcium salts.[1]	0.035% calcium, derived from added calcium salts, in the final product.

[1] It is the intention to specify the other safe and suitable calcium salts in due course.

4. HYGIENE

4.1 It is recommended that the product covered by the provisions of this standard be prepared in accordance with the International Code of Hygienic Practice for Canned Fruit and Vegetable Products recommended by the Codex Alimentarius Commission (Ref. CAC/RCP 2–1969).

4.2 To the extent possible in good manufacturing practice the product shall be free from objectionable matter.

4.3 The product shall not contain any pathogenic microorganisms or any toxic substance originating from micro-organisms.

5. WEIGHTS AND MEASURES

5.1 *Fill of container:*

5.1.1 *Minimum Fill.* The containers shall be well filled with tomatoes and the product (including packing medium) shall occupy not less than 90% of the water capacity of the container. The water capacity of the container is the volume of distilled water at 20° C. which the sealed container water at when completely filled.

5.1.2 *Classification of "Defective".* A container that fails to meet the requirement for minimum fill (90% container capacity) of sub-section 5.1.1 shall be considered a "defective".

5.1.3 *Acceptance.* A lot will be considered as meeting the requirement of sub-section 5.1.1 when the number of "defectives" as defined in sub-section 5.1.2, does not exceed the acceptance number (c) of the appropriate sampling plan (AQL–6.5) in the Sampling Plans for Prepackaged Foods (1969).

5.1.4 Minimum Drained Weight.

5.1.4.1 The drained weight of the product shall be not less than 50% of the weight of distilled water at 20°C which the sealed container will hold when completely filled.

5.1.4.2 The requirements for minimum drained weight shall be deemed to be complied with when the average drained weight of all containers examined is not less than the minimum required, provided that there is no unreasonable shortage in individual containers.

6. LABELLING

In addition to Sections 1, 2, 4, and 6 of the General Standard for the Labelling of Prepackaged Foods (Ref. CAC/RS 1–1969), the following specific provisions apply:

6.1 *The Name of the food.*

6.1.1 The name of the product shall include:

(a) The designation "tomatoes", and

(b) If the peel has not been removed, the word "Unpeeled".

6.1.2 The following shall be included as part of the name or in close proximity to the name of the product:

The packing material: "tomato puree", "tomato pulp", or "tomato paste", where appropriate.

6.1.3 The following shall be so stated on the label as to be easily discernible by the consumer:

(a) The style: "diced", "sliced", or "wedges", where appropriate.

"stewed", where appropriate, whichever of stewed", where appropriate, whichever of these terms is commonly used in the country concerned, or a declaration of the vegetable ingredients e.g. "with X", where appropriate.

6.1.4 The name of the product may, if the product complies with the requirements set out in sub-section 2.3.4, include:

The style: "Whole".

6.1.5 The following may be stated on the label:

(a) The type: "solid pack" if the pack complies with sub-section 1.4.2;

(b) The packing material: "juice" or "residual material" if the packing medium complies with subsection 2.1.1 or 2.1.2, as appropriate.

6.2 *List of ingredients.* A complete list of ingredients shall be declared on the label in descending order of proportion in accordance with sub-sections 3.2 (b) and (c) of the General Standard for the Labelling of Prepackaged Foods.

6.3 *Net contents.* The net contents shall be declared by weight in either the metric ("Système International" units) or avoirdupois or both systems of measurement as required by the country in which the product is sold.

6.4 *Name and address.* The name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the product shall be declared.

6.5 *Country of origin:*

6.5.1 The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

6.5.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labelling.

7. METHODS OF ANALYSIS AND SAMPLING

The methods of analysis and sampling referred to hereunder are international referee methods.

7.1 *Method of sampling.* Sampling shall be in accordance with the Sampling Plans for Prepackaged Foods (1969).

7.2 *Determination of drained weight.* According to the FAO/WHO Codex Alimentarius method (FAO/WHO Codex Alimentarius Methods of Analysis for Processed Fruits and Vegetables CAC/RM 37–1970, "Determination of Drained Weight"—Method II).

Results are expressed as % m/m calculated on the basis of the mass of distilled water at 20°C which the sealed container will hold when completely filled.

7.3 *Determination of Calcium.* According to the FAO/WHO Codex Alimentarius method FAO/WHO Codex Alimentarius Methods of Analysis for Processed Fruits and Vegetables, CAC/RM 38–1970, Determination of Calcium in Canned Vegetables). Results are expressed as % m/m calcium.

7.4 *Mold count method.* According to the A.O.A.C. (1965) method (Official Methods of Analysis of the A.O.A.C., 1965, 36.069 Molds (*12*)—Official, Final action (and 36.001(j)(1); 36.003(h)(11)), applied on the liquid portion obtained in the Determination of drained weight (7.2). Results are expressed as % positive fields.

In many respects the provisions of the present U.S. standards and the Codex standard are identical, but in certain instances there are significant variations. The following is a comparison of what, in the opinion of the Commissioner, are the important differences between the U.S. and Codex standards on which the Commissioner particularly requests comments with available supporting data. Following each item of comparison is the action the Commissioner proposes to take in the event no comments are received:

COMPARISON OF IDENTITY ASPECTS AND PROPOSED COURSE OF ACTIONS

1. *Botanical name.* 21 CFR 53.40(a) does not contain the botanical or scientific name for tomatoes. The Commissioner proposes that the botanical name, *Lycopersicum esculentum* P. Mill., be included in the U.S. standard as provided for by Codex (1.1).

2. *Varietal type.* 21 CFR 53.40(a) does not provide for specific varietal types other than red or reddish varieties. Codex (1.2) classes tomatoes of distinct varietal groups with respect to shape or other similar physical characteristics as round (globular or semiglobular shape), or pear or egg or plum (elongated shape). The Commissioner proposes no change as the shape designation in Codex is not specific enough to be useful in enforcing legal requirements. Varietal hybridization might render the terms meaningless.

3. *Styles or forms.* 21 CFR 53.40(b)(1) and (2) does not specifically include the styles "whole and pieces" or "pieces." These styles are now included in the general classification "tomatoes" without specifically naming either. Codex (1.3.2 and 1.3.3) provides for these styles, but does not provide for labeling (6.1, 6.1.1 and 6.1.2). The Commissioner proposes that these styles and labeling therefor be provided for in 21 CFR 53.40 as optional "styles" of tomatoes since they are presently recognized by consumers as the styles in which "canned tomatoes" are normally packed.

4. *Stewed tomatoes.* Except for "flavoring," 21 CFR 53.40 does not provide for ingredients that are normally considered in the United States as being used in preparing "stewed" tomatoes, but Codex does. Codex (2.2.2) provides for the addition of natural vegetable products such as onion, peppers, celery, and basil leaf, but in an amount not to exceed 10 percent by weight of the finished food. Codex (2.2.1) also provides for the use of starch and seasonings both of which are sometimes used as ingredients at present, stewed tomatoes are not considered as the standardized food. That is, they need not comply with the standard. The Commissioner now proposes to permit the use of natural vegetable ingredients, not to exceed 10 percent by weight of the finished food, starch, and seasoning. However, the Commissioner proposes somewhat more restrictive conditions under which the food may be named "stewed tomatoes" than does Codex. Codex provides for "flavored", "seasoned" or "stewed" (6.1.3(b)), whichever of these terms is used in the country concerned, or a declaration of the vegetable ingredients, e.g., "with X" where appropriate. Since the American consumer normally considers a product labeled "stewed tomatoes" to contain at least onion, peppers, and celery, the Commissioner proposes that the product be labeled "stewed tomatoes" only if those three vegetables are added. However, if fewer than three vegetables are added, the words "with _____" or "seasoned with _____" may be used.

5. *Optional packing media.* Codex (2.1) lists juice, residual material, puree or pulp, and paste as optional packing media. 21 CFR 53.40 provides for essentially the same tomato ingredients, but lists them as optional ingredients rather than optional packing media. The Commissioner proposes that in order to eliminate possible confusion over this minor

difference, 21 CFR 53.40 be revised to be consistent with Codex. In addition, he proposes to provide for tomato juice as defined in 21 CFR 53.1 as an optional packing medium since some packers of canned tomatoes presently use the § 53.1 tomato juice as a liquid packing medium for the product. For labeling purposes, the statement "in tomato juice" may be declared on the principal display panel.

6. *Drained liquid as packing medium.* 21 CFR 53.40(a)(1) provides for the liquid draining from such tomatoes during or after peeling or coring. Codex (2.1) does not specifically provide for such a liquid which would be encompassed by the term "juice." The Commissioner proposes no change in the U.S. standard.

It should be noted that § 53.40(e)(2)(v) (21 CFR 53.40(e)(2)(v)) set out in the proposed amendment would, among other things, require declaration of the optional packing media tomato paste and tomato puree or tomato pulp, both standardized foods under §§ 53.20 and 53.30 (21 CFR 53.20 and 53.30), but would not require label declaration of tomato juice, also a standardized food under § 53.1 (21 CFR 53.1). Further, whereas § 53.40(e)(2)(v) would require declaration of: (1) "Strained residual tomato material from preparation for canning," it would not require declaration of; (2) "the liquid draining from the tomatoes during or after peeling or coring" or; (3) "the liquid strained from mature tomatoes." It has long been recognized that there is no significant difference between numbers (2) and (3) referred to in the preceding sentence or that which naturally runs from the tomatoes after such tomatoes are placed in the can. Following a hearing and a resulting record it was initially ordered in the FEDERAL REGISTER of July 18, 1939 (4 FR 3321) that "the liquid draining from tomatoes during or after peeling and coring" need not be stated but that "the liquid strained from mature tomatoes * * *" must be stated as "with added strained tomatoes."

Later, as set out in Trade Correspondence (TC–57) dated February 15, 1940, the Food and Drug Administration took the position that the words "With Added Tomato Juice," the standardized food, may be substituted for the label declaration "With Added Strained Tomatoes." Later, and again following a hearing and a resulting record, it was ordered in the FEDERAL REGISTER of December 20, 1951 (16 FR 12763) that when a packer adds liquid strained from mature tomatoes it is no longer required to state on the label "with added strained tomatoes" because the difference between it and the liquid draining from such tomatoes during or after peeling and coring "may be insignificant." This deletion of the mandatory requirement for the label statement "with added strained tomatoes" or the synonymous statement "with added tomato juice" had the effect of making the use of either of these statements optional. This has been the labeling practice of the industry since 1951.

The Commissioner of Food and Drugs is not aware of any new information to the contrary, therefore, he has no reason to propose that the present labeling practice must be changed in order to promote honesty and fair dealing in the interest of consumers.

7. *Firming agents.* 21 CFR 53.40(a)(5) permits the use of calcium salts in a quantity reasonably necessary to firm the tomatoes, but the amount of calcium added thereby is not more than 0.026 percent of the weight of the finished canned tomatoes, except that if the optional tomato ingredient is one of the following forms: Diced, sliced, or wedges, the amount of calcium added is not more than 0.1 percent of the weight of the finished food. Codex (3.2) permits a maximum level of 0.035 percent calcium derived from added calcium salts for all forms of the final product. The Commissioner understands, however, that a petition is presently under consideration by the Codex Commission proposing to amend the Codex standard to provide, on a finished food basis, for 0.045 percent calcium for whole and for pieces and 0.080 percent for diced, sliced, and wedges. Consequently, anticipating that the proposed levels will be adopted, he proposes that 21 CFR 53.40 be amended to reflect such proposed new levels now being considered by the Codex Commission.

8. *Acidifying agents.* 21 CFR 53.40(a)(6) provides for the addition of any edible organic acid (those generally recognized as safe and suitable) in amounts not greater than reasonably required to accomplish the desired effect. Codex (3.1) provides for use of acetic acid, citric acid, lactic acid, malic acid, and L-tartaric acid; the maximum level of use is not limited. The Commissioner proposes no change except the term "edible" organic acid be changed to read "safe and suitable" organic acid in conformity with the language contained in a number of the more recent standards and consistent with the use of this optional ingredient in canned tomatoes. The U.S. requirement permitting the use of any safe and suitable organic acid allows for greater flexibility in the use of organic acids.

9. *Nutritive sweeteners.* 21 CFR 53.40(a)(7) permits the use of any nutritive sweetener in solid form in a quantity reasonably necessary to compensate for any tartness resulting from any added edible (safe and suitable) organic acid permitted in 21 CFR 53.40(a)(6). Codex (2.2.4) permits the use of sucrose, dextrose and dried glucose sirup when acidifying agents are used. The Commissioner proposes to change the present U.S. provision for optional sweeteners to "dry nutritive carbohydrate sweeteners". The use of the additional optional sweetening ingredients as compared to Codex would allow greater flexibility in the use of sweetening agents and at the same time benefit the consumer economically.

10. *Name of the food.* Both 21 CFR 53.40 and Codex (6.1) state that the name of the food is "tomatoes" or when the tomatoes are not peeled, "unpeeled tomatoes". Under certain conditions, both standards permit modification of the name with the words "whole", "solid pack", "diced", "sliced", or "wedges", but differ as to whether such modification is required or optional. 21 CFR 53.40 provides that such words may be declared. Codex provides that the words "whole" and "solid pack" may be declared, but requires that the words "diced", "sliced" or "wedges" be so stated on the label as to be easily discernible by the consumer. In addition, Codex (6.1.2) requires that the packing media "tomato puree", "tomato pulp", or "tomato paste" when used be included as part of the name or in close proximity to the name of the product. The Commissioner proposes to amend 21 CFR 53.40 to provide for the same labeling provisions relating to the name of the food as set forth in Codex, except that whenever a flavoring is used that characterizes the food, it shall be declared as specified in 21 CFR 1.12.

11. *Label declaration of optional ingredients.* 21 CFR 53.40(c)(2) presently specifies the words and statements which shall be declared on the label whenever any optional ingredients provided for in 21 CFR 53.40(a)(2), (4), (5), (6), (7), (8), (9), and (10) is present. Codex (6.2) requires a complete listing of ingredients on the label in descending order of proportion. The Commissioner proposes that 21 CFR 53.40 be amended to require the label declaration of all optional ingredients in accordance with the requirements set forth in 21 CFR Part 1.

COMPARISON OF THE QUALITY ASPECTS AND PROPOSED COURSE OF ACTIONS

1. *Drained weight.* 21 CFR 53.41(a)(1) lists drained weight as one of the factors of quality. 21 CFR 53.41(b)(1) sets forth the method for determining drained weight for canned tomatoes. Drained weight is not a factor of quality in the Codex standard but rather a requirement under weights and measures. The Commissioner proposes to delete the provision for a method for the determination of drained weight from 21 CFR 53.41 and provide for such in 21 CFR 53.42. He proposes such change not only to be consistent with Codex, but to update the standard to reflect recent changes in horticultural practices. Newer, firmer varieties of tomatoes presently being used by the industry have all but eliminated low drained weights resulting from excessively broken up tomatoes. If low drained weights should become a problem, it would more likely occur from there being an insufficient quantity of tomatoes in the can. Thus, as proposed, a lot of canned tomatoes found to be defective because of low drained weights would be labeled "Below Standard in Fill, Low Drained Weight" rather than "Below Standard in Quality-Good Food-Excessively Broken Up" as presently required. Other aspects of drained weight are discussed further under fill of container comparisons.

2. *Color criteria.* 21 CFR 53.41 (a) (2) and (b) (1) and (2) provides for a method of measuring the strength and redness of color determined by specified blended color combinations of concentric Munsell color discs. Codex (2.3.2) specifies that the color of the drained tomatoes be characteristic for tomatoes that have been properly prepared and properly processed. The color of canned tomatoes containing other permitted ingredients shall be considered characteristic of the color imparted by the toma- Commissioner proposes no change in the toes and the other substances used. The U.S. color requirement or the method as they are specific and should be retained.

3. *Flavor criteria.* 21 CFR 53.41 has no provisiion for flavor criteria. Codex (2.3.3) requires that canned tomatoes shall have a normal flavor and odor, free from flavors and odors foreign to the product, and canned tomatoes with special ingredients shall have a flavor characteristic of that imparted by the tomatoes and other substances used. The Commissioner proposes no change in the U.S. standard in that abnormal odor or flavor would make the food adulterated under section 402 of the Federal Food, Drug, and Cosmetic Act.

4. *Defects.* The U.S. standard does not provide for a general statement on defects. Codex (2.3.5) states that the finished product shall be prepared from such materials and under such practices that it shall be substantially free from objectionable core material and extraneous plant material and shall not contain excessive defects whether specifically mentioned in this standard or not. Certain specific defects shall not be present in amounts greater than limitations as specified. These are discussed below. The Commissioner proposes no change as the Codex language in the general proscription of defects is not specific enough to be useful in enforcing legal requirements. Adulteration is covered under section 402 of the Federal Food, Drug, and Cosmetic Act and not under section 401 of the act which is the basis for the promulgation of food standards.

5. *Peel.* 21 CFR 53.41(a) (3) permits 1 square inch (6.45 cm^2) of peel per pound (454 g) of canned tomatoes. Codex (2.3.5.1) permits not more than 15 cm^2 (2.325 square inches (per kilogram (2.2 pounds or 35.27 ounces) based on an average of all samples examined. On a per pound (454 g) basis, the Codex tolerance for peel is 6.8 cm^2 (1.06 square inch) as compared to the U.S. tolerance of 6.45 cm^2 (1 square inch) per pound. The Commissioner proposes that 21 CFR 53.41(a) (3) be amended to permit the presence of peel at the same level as Codex 15 cm^2 per kilogram (6.8 cm^2 or 1.06 $in.^2$ per pound) and that the tolerance for peel be based on an average of all samples examined.

6. *Blemishes.* 21 CFR 53.41(a) (4) permits blemishes covering one-fourth square inch (1.6 cm^2) area per pound (454 g) of canned tomatoes. Codex (2.3.5.2) permits not more than 3.5 cm^2 (0.54 square inch) aggregate area per kilogram (2.2 pounds) based on an average of all samples examined. On a per pound (454 g) basis the Codex tolerance for blemishes is 1.6 cm^2 (0.25 square inch) which is the same as the U.S. tolerance. The Commissioner proposes that 21 CFR 53.41(a) (4) be amended by adopting the Codex tolerance for blemishes 3.5 cm^2 per kilogram (1.6 cm^2 or 0.25 $in.^2$ per pound) and that it be based on an average of all samples examined.

7. *Mold.* The U.S. standard of quality does not list mold as a factor of quality as does Codex. The FDA regards mold as an indication of the use of unsound fruit or as a result of insanitary handling. Consequently, whenever canned tomatoes are found to contain excessive mold they are considered adulterated under section 402 of the Federal Food, Drug, and Cosmetic Act. Therefore, the Commissioner does not propose to revise 21 CFR 53.41 to provide for mold as a factor of quality.

8. *Sampling and acceptance procedure for quality factors.* The U.S. standard does not provide for a sampling and acceptance procedure for quality factors. Codex (2.3.6 and 2.3.7) states that a container that fails to meet one or more of the applicable quality requirements for color, flavor, wholeness, and core material shall be considered a "defective" and that a lot will be considered as meeting the applicable quality requirements when the number of "defectives" does not exceed the acceptance number (c) of the appropriate sampling plan (AQL 6.5) in the "Sampling Plans for Prepackaged Foods, 1969." Codex (2.3.5.1 and 2.3.5.2) also states that peel (except in "unpeeled" styles) and blemishes shall be based on sample averages, for acceptance or rejection of the quality of the lot. The Commissioner proposes that the procedure for determining the acceptability of a lot for quality factors be consistent with Codex.

9. *Substandard - in - quality labeling provision.* 21 CFR 53.41(c) contains specific labeling provisions for canned tomatoes that fail to meet the standard of quality. Codex is silent on what disposition is to be made of canned tomatoes that do not meet the quality standard. This is left entirely to the individual country accepting the standard. The Commissioner proposes no change as the provision provides a means of disposing of canned tomatoes that do not meet the quality standard.

COMPARISON OF FILL OF CONTAINER ASPECTS AND PROPOSED COURSE OF ACTIONS

1. *Minimum fill and drained weight standards.* 21 CFR 53.42(a) provides a standard of fill of container which requires that the food occupy not less than 90 percent of the total capacity of the container, as determined by the general method for fill of containers prescribed in § 10.6(b). Codex (5.1.1) also provides that the product (including packing medium) shall occupy not less than 90 percent of the water capacity of the container. Under the same Part 5, Codex also provides for a minimum drained weight requirement (5.1.4). As already discussed under the comparison of quality aspects, drained weight is a factor of quality in the present U.S. standard of quality and the Commissioner proposes to transfer the requirement as well as the method for determining drained weight to the fill of container standard (21 CFR 53.42) to be consistent with Codex.

2. *Sampling and acceptance procedures for minimum fill.* 21 CFR 53.42 does not provide for an acceptance procedure for minimum fill. Codex (5.1.1, 5.1.2, and 5.1.3) specifies that a container that fails to meet the requirement for minimum fill (90 percent container capacity) shall be considered a "defective" and for lot acceptance, (c) of the appropriate sampling plan (AQL–6.5) outlined in the "Sampling Plans for Prepackaged Foods, 1969," shall be applied. The Commissioner proposes that the sampling and acceptance procedure for minimum fill shall be consistent with the Codex Sampling Plans AQL–6.5.

3. *Sampling and acceptance procedure for minimum drained weight.* 21 CFR 53.42 does not provide for an acceptance procedure for minimum drained weight. Codex (5.1.4.2) states that the requirements for minimum drained weight shall be deemed to be complied with when the average drained weight of all containers examined is not less than the minimum required (50 percent of the water capacity of the container), provided that there is no unreasonable shortage in individual containers. The Commissioner proposes that compliance with the U.S. minimum drained weight requirement (50 percent of the water capacity of the container) be based on "averages" as in the Codex standard, but further proposes to define a defective container as one having a drained weight of less than 45 percent of its water capacity and to require the sample to meet the acceptance requirements of the sampling plan.

4. *Methods for determining drained weight.* 21 CFR 53.41(b) (1) provides for a method for determining drained weight which the Commissioner proposes to transfer to 21 CFR 53.42. The meshes of the sieve specified are made by so weaving wire of 0.054 inch diameter as to form square openings 0.446 inch by 0.446 inch. This sieve has been specified in the U.S. canned tomato standard since 1940. This two-mesh sieve is not listed in either the American Society for Testing and Materials (ASTM) specifications E–11–71 or in the International Standards Organization (ISO) sieve recommendations. The availability of this specific sieve is now very limited. The participation of this country in efforts to develop international food standards prompted a comparison of drained weights as determined by screens made to the ISO recommended specification and those commonly used in the United States. The National Canners Association published comparisons of drained weight determinations for canned tomatoes using U.S. and ISO screens, in the Journal of the AOAC (vol. 53, No. 1, 1970). It concluded that there is no "practical" difference in drained weights made using a two-mesh sieve (wire 0.054

inch with square openings 0.446 inch) and a 7/16-inch sieve (wire 0.097 inch with square openings 0.438 inch). Codex (7.2) calls for use of the method given in FAO/WHO Codex Alimentarius Methods of Analysis for Processed Fruits and Vegetables CAC/RM 37-1970, "Determination of Drained Weight—Method II." This specifies that either of two sieves may be used, with square openings of 11.2 mm or 11.3 mm. The 11.2 mm opening sieve is exactly the same as a standard U.S. 7/16 (0.438) inch opening. The 11.3 mm opening sieve corresponds to the nearest 1/10 mm, with the calculated value for the sieve, with square openings of 0.446 inch, currently cited in 21 CFR 53.41(b)(1). The Commissioner proposes to amend 21 CFR 53.41(b)(1) to agree with Codex by including an additional sieve, as an alternate to the currently cited sieves, with square openings of 11.2 mm (7/16- or 0.438-inch openings) as this sieve is a "standard" sieve listed in both the ASTM and ISO specifications for sieves and it is readily available throughout the world.

5. *Substandard in fill labeling provision.* 21. CFR 53.42(b) provides specific labeling requirements for tomatoes that are substandard in minimum fill. The Commissioner also proposes to provide for substandard labeling when a lot is defective because of low drained weights. Codex is silent on the disposition of canned tomatoes that do not meet the minimum fill or drained weight requirements of the standard.

Accordingly, the Commissioner proposes on his own intiative (21 CFR 2.120) that the existing U.S. canned tomatoes standards of identity (21 CFR 53.40), quality (21 CFR 53.41), and fill of container (21 CFR 53.42) be revised as set forth below to provide for certain features, based on consideration of the Codex standard, which, in his opinion, would promote honesty and fair dealing in the interest of consumers.

Therefore, it is proposed that Part 53 be amended by revising §§ 53.40, 53.41, and 53.42 to read as follows:

§ 53.40 Canned tomatoes; identity; label statement of optional ingredients.

(a) *Description.* (1) Canned tomatoes is the food prepared from mature tomatoes conforming to the characteristics of the fruit *Lycopersicum esculentum* P. Mill, of red or reddish varieties. The tomatoes may or may not be peeled, but shall have had the stems and calicies removed and shall have been cored, except where the internal core is insignificant to texture and appearance.

(2) Canned tomatoes may contain one or more of the safe and suitable optional ingredients specified in paragraph (b) of this section, be packed without any added liquid or in one of the optional packing media specified in paragraph (c) of this section and be prepared one of the styles specified in paragraph (d) of this section. Such food is processed by heat either before or after being sealed in a container so as to prevent spoilage.

(b) *Optional ingredients.* One or more of the following safe and suitable ingredients may be used:

(1) Calcium salts in a quantity reasonably necessary to firm the tomatoes, but the amount of calcium in the finished canned tomatoes is not more than 0.045 percent of the weight, except that when the tomatoes are prepared in one of the styles specified in paragraph (d) (4) to (6) of this section the amount of calcium is not more than 0.080 percent of the weight of the food.

(2) Organic acids for the purpose of acidification for more effective heat processing.

(3) Dry nutritive carbohydrate sweeteners whenever any organic acid provided for in subparagraph (2) of this paragraph is used, in a quantity reasonably necessary to compensate for the tartness resulting from such added acid.

(4) Salt.

(5) Spices, spice oils.

(6) Flavoring and seasoning.

(7) Starch.

(8) Natural vegetable ingredients such as onion, peppers, and celery in a quantity not more than 10 percent by weight of the finished food.

(c) *Packing media.* (1) The liquid draining from the tomatoes during or after peeling or coring.

(2) The liquid strained from the residue from preparing tomatoes for canning consisting of peels and cores with or without tomatoes or pieces thereof.

(3) The liquid strained from mature tomatoes.

(4) Tomato juice, tomato puree or tomato pulp or tomato paste complying with the compositional requirements of §§ 53.1, 53.20, and 53.30.

(d) *Styles.* (1) Whole.

(2) Whole and pieces.

(3) Pieces.

(4) Diced.

(5) Sliced.

(6) Wedges.

(e) *Name of the food.* (1) The name of the food is "tomatoes", except that when the tomatoes are not peeled the name is "unpeeled tomatoes".

(2) The following shall be included as part of the name or in close proximity to the name of the food:

(i) A declaration of any flavoring that characterizes the product as specified in § 1.12 of this chapter.

(ii) A declaration of any added spice, seasoning, or natural vegetable ingredient that characterizes the product, e.g., "with _____" or "seasoned with _____" (the blank to be filled in with the name of the spice, seasoning, or vegetable used).

(iii) The word "stewed" if the tomatoes contain at least the three optional vegetables listed in paragraph (b)(8) of this section.

(iv) The styles: "diced", "sliced", or "wedges", as appropriate.

(v) The name of the packing medium: "tomato paste", "tomato puree", or "tomato pulp" as provided in paragraph (c)(4) of this section, or "strained residual tomato material from preparation for canning" as provided for in paragraph (c)(2) of this section, as appropriate. The name of the packing medium shall be preceded by the word "with".

(3) The following may be included as part of the name or in close proximity to the name:

(i) The word "whole" if the tomato ingredient present is whole or almost whole and the drained weight as determined in accordance with the method prescribed in § 53.42(b) is not less than 80 percent of the finished food.

(ii) The words "solid pack" when none of the optional packing media specified in paragraph (c) of this section are used.

(iii) The words "in tomato juice" if the packing medium specified in paragraph (c)(4) of this section is used.

(f) *Label declaration of optional ingredients.* The common name of the optional ingredients used shall be declared on the label as required by the applicable sections of 21 CFR Part 1.

§ 53.41 Canned tomatoes; quality; label statement of substandard quality.

(a) The standard of quality for canned tomatoes is as follows:

(1) The strength and redness of color as determined by the method prescribed in paragraph (b) of this section, are not less than that of the blended color of any combination of the color discs described in such method in which one-third the area of disc 1, and not more than one-third the area of disc 2, is exposed;

(2) Peel per kilogram (2.2 pounds) of canned tomatoes in the container, covers an area of not more than 15 cm^2 (2.3 square inches) (6.8 cm^2 (1.06 square inch) per pound) on average of all containers examined provided, however, the area of peel is not a factor of quality for canned unpeeled tomatoes labeled in accordance with § 53.40(e)(1); and

(3) Blemishes, per kilogram (2.2 pounds) of canned tomatoes in the container cover an area of not more than 3.5 cm^2 (0.54 square inch) (1.6 cm^2 (025 square inch) per pound) based on an average of all containers examined.

(b) Canned tomatoes shall be tested by the following method to determine whether or not they meet the requirements of paragraph (a)(1) of this section:

(1) Determine the drained weight by the method prescribed in the standard of fill of container for canned tomatoes set forth in § 53.42.

(2) Remove from the sieve the drained tomatoes, cut out and segregate successively those portions of least redness until 50 percent of the drained weight has been so segregated. Comminute the segregated portions to a uniform mixture without removing or breaking the seeds. Fill the mixture into a black container to a depth of at least 25.4 mm (1 inch). Free the mixture from air bubbles, and skim off or press below the surface all visible seeds. Compare the color of the mixture, in full diffused daylight or its equivalent, with the blended color of combinations of the following concentric Munsell color discs of equal diameter, or the color equivalents of such discs:

(i) Red—Munsell 5 R 2.6/13 (glossy finish).

(ii) Yellow—Munsell 2.5 YR 5/12 (glossy finish).

(iii) Black—Munsell N 1/ (glossy finish).

(iv) Grey—Munsell N 4 (mat finish).

(c) *Sampling and acceptance procedure.* A lot is to be considered acceptable when the number of "defectives" does not exceed the acceptance number in the sampling plans given in subparagraph (2) of this paragraph.

(1) Definitions of terms to be used in the sampling plans in subparagraph (2) of this paragraph are as follows:

(i) *Lot.* A collection of primary containers or units of the same size, type, and style manufactured or packed under similar conditions and handled as a single unit of trade.

(ii) *Lot size.* The number of primary containers or units in the lot.

(iii) *Sample size (n).* The total number of sample units drawn for examination from a lot.

(iv) *Sample unit.* A container, the entire contents of a container, a portion of the contents of a container, or a composite mixture of product from small containers that is sufficient for examination or testing as a single unit.

(v) *Defective.* Any sample unit shall be regarded as defective when the sample unit does not meet the criteria set forth in the standards.

(vi) *Acceptance number (c).* The maximum number of defective sample units permitted in the sample in order to consider the lot as meeting the specified requirements.

(vii) *Acceptable quality level (AQL).* The maximum percent of defective sample units permitted in a lot that will be accepted approximately 95 percent of the time.

(2) Sampling plans:

Lot size (primary containers)	Size of container	
	Net weight equal to or less than 1 kilogram (2.2 pounds)	
	n[1]	c[2]
4,800 or less	13	2
4,801 to 24,000	21	3
24,001 to 48,000	29	4
48,001 to 84,000	48	6
84,001 to 144,000	84	9
144,001 to 240,000	126	13
over 240,000	200	19
	Net weight greater than 1 kilogram (2.2 pounds) but not more than 4.5 kilograms (10 pounds)	
	n[1]	c[2]
2,400 or less	13	2
2,401 to 15,000	21	3
15,001 to 24,000	29	4
24,001 to 42,000	48	6
42,001 to 72,000	84	9
72,001 to 120,000	126	13
over 120,000	200	19
	Net weight greater than 4.5 kilograms (10 pounds)	
	n[1]	c[2]
600 or less	13	2
601 to 2,000	21	3
2,001 to 7,200	29	4
7,201 to 15,000	48	6
15,001 to 24,000	84	9
24,001 to 42,000	126	13
over 42,000	200	19

[1] n=Number of primary containers in sample.
[2] c=Acceptance number.

(d) If the quality of canned tomatoes falls below the standard prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard quality specified in § 10.7(a) of this chapter in the manner and form therein specified; if, however, the quality of canned tomatoes falls below standard with respect to only one of the factors of quality specified by paragraph (a) (1) to (3) of this section, there may be substituted for the second line of such general statement of substandard quality ("Good Food—Not High Grade") a new line, appropriate for the corresponding subparagraph designation of paragraph (a) of this section which the canned tomatoes fail to meet, to read as follows: (1) "Poor color" or (2) "Excessive peel" or (3) "Excessive blemishes".

§ 53.42 Canned tomatoes; fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned tomatoes is a fill such that:

(1) The fill of the tomato ingredient and packing medium, as determined by the general method for fill of container prescribed in § 10.6(b) of this chapter, is not less than 90 percent of the total capacity of the container.

(2) The drained weight of the tomato ingredient, as determined by the method described in paragraph (b) of this section, is not less than 50 percent of the water capacity of the container based on an average of all containers examined, as specified in paragraph (b) of this section and by the general method for water capacity of containers as prescribed in § 10.6(a) of this chapter.

(b) The drained weight is determined by the following method: Tilt the opened container so as to distribute the contents evenly over the square meshes of a circular sieve with openings of 11.2 mm (7/16, 0.438 inch) or 11.33 mm (0.446 inch) which has previously been weighed. The diameter of the sieve is 20.3 cm (8 inches) if the quantity of the contents of the container is less than 1.36 kg (3 pounds) and 30.5 cm (12 inches) if such quantity is 1.36 kg (3 pounds) or more. The bottom of the sieve is woven-wire cloth which complies with the specifications for such sieve set forth in the "Definitions of Term and Explanatory Notes", p. xviii, of the "Official Methods of Analysis of the Association of Analytical Chemists," 11th edition, 1970.[1] Without shifting the material on the sieve, incline the sieve at an approximate 17–20° angle to facilitate drainage. Two minutes from the time drainage begins, weigh the sieve and the drained material. Record in grams (ounces) the weight so found, less the weight of the sieve, as the drained weight.

(c) (1) A container that falls below the requirement for minimum fill prescribed in paragraph (a) (1) of this section is considered a "defective." The food will be deemed to fall below the standard of fill when the number of defectives exceeds the acceptance number (c) in the sampling plans prescribed in § 53.41(c) (2).

(2) Tomatoes will be deemed to fall below the standard of fill when the average drained weight of all of the containers examined according to the sampling plans prescribed in § 53.41(c) (2) is less than that prescribed in paragraph (a) (2) of this section. Any single container having a drained weight of less than 45 percent of its water capacity will be deemed to fall below the standard of fill and is considered a defective.

(d) If canned tomatoes fall below the standard of fill of container prescribed in paragraphs (a) (1) and (2) or (c) (2) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form therein specified. If canned tomatoes fall below the standard of fill of container in respect to drained weight, the words "Low drained weight" shall follow the general statement of substandard fill on the label.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, as amended, 70 Stat. 919; 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 July 29, 1974. 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. Received comments may be seen in the above office

[1] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044.

during working hours, Monday through Friday.

Dated: April 19, 1974.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.74-9699 Filed 4-26-74;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1952]

SUPPLEMENT TO APPROVED WASHINGTON PLAN

Completion of Developmental Step

1. *Background.* Part 1953, Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter referred to as the Act) by which the Assistant Secretary for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) under a delegation of authority from the Secretary of Labor (Secretary's Order 12-71, 36 FR 8754, May 12, 1971) will review changes in a State plan which has been approved in accordance with section 18(c) of the Act and Part 1902 of this chapter. On January 26, 1973, notice was published in the FEDERAL REGISTER (38 FR 2421) of the approval of the Washington plan and the adoption of Subpart F to Part 1952 containing this decision.

Section 1952.120(b) (1) and (2) of Subpart F contains a descriptions of the State's proposed enabling legislation to be enacted in the 1973 legislative session. By letter dated April 12, 1973, from Mr. William C. Jacobs, Director of the Department of Labor and Industries of the State of Washington, to James W. Lake, Assistant Regional Director, Region X, Occupational Safety and Health Administration, the State has submitted, as part of its plan, copies of Senate Bill No. 2386, Chapter 80, Laws of 1973, which was signed by the Governor on March 9, 1973, and became effective June 7, 1973. This legislation was submitted to the State Legislature in accordance with the requirement of § 1952.123(a) of the State's developmental schedule. Pursuant to 29 CFR 1953.11(d)(1), preliminary examination discloses no cause for rejecting this supplement and its approval is under consideration.

2. *Issues.* The decision approving the Washington State plan, including its proposed legislation incorporated several assurances from the State on revisions to the legislation to meet the requirements of the Act and 29 CFR Part 1902. These revisions have been made as follows:

Revised legislation. (a) As stated in the decision of approval, the legislation as enacted should include authority for the Director of the Department of Labor and Industries to adopt rules governing his reassumption of jurisdiction to review citations and penalties prior to review by the Board of Industrial Insurance Appeals. The State legislation as enacted, section 14(3), includes such authority and the rules will afford employers, employees and employee representatives notice of the reassumption of jurisdiction and an opportunity to object or support reassumption either in writing or orally at an informal conference.

(b) Authority for a separate on-site consultation staff is incorporated in sections 15(8) and 25 of the Washington legislation in accordance with the guidelines set out in the original approval decision.

(c) Washington's legislation as enacted contains a mandatory penalty of up to $1,000 for serious violations, section 18(2), and a discretionary penalty of up to $1,000 for non-serious violations, section 18(3). The proposed legislation did not have a mandatory penalty for serious violations and had a $500 maximum for nonserious violations.

Additional provisions. Washington's legislation includes additional provisions in several other areas that were not in the legislation as approved. These provisions appear to add to the effectiveness of the State program.

(a) In addition to posting citations at or near the place of the violation to inform employees of the hazards, the State's legislation, section 12, authorizes the Director to issue rules permitting employee representatives to receive, upon written application, copies of all citations and notices of proposed penalties issued to employers whose employees are represented by that employee representative.

(b) Under section 16(2) of the State's legislation concerning discharge or discrimination against employees, the State explicitly provides for a pirvate right of action by the employee when the Director determines that the discrimination provisions have not been violated.

(c) In the legislation as originally proposed, public employers were exempted from all civil penalties except for penalties for failure to abate violations. As enacted, the law contains no exemption for public employers from any of the penalty provisions.

Areas of difference. In addition to several minor word changes, there are two areas where Washington's legislation as enacted differs from the provisions of the legislation as approved.

(a) Washington's legislation as proposed contained a provision for issuance of an administrative order restraining a hazardous working condition where "such danger exists which could reasonably be expected to cause death or serious physical harm." In the attachment to a letter dated October 18, 1972, from the State, this was revised to correspond to the definition of serious violation in section 17(k) of the Federal Act ("substantial probability that death or serious physical harm could result") because these administrative orders were designed for use in abating serious violations.

However, the State revised its language on imminent danger injunctions, section 17 of the State Act, to include a "substantial probability" test rather than the language in the Federal Act, and the State legislation as initially reviewed, i.e. "such danger could reasonably be expected to cause death or serious physical harm." The use of the "substantial probability" language for imminent danger situations was not the result of either public or Departmental comments. Indeed, 29 CFR 1902.4(c)(2)(vii) specifically refers to the imminent danger language in section 13(a) of the Federal Act as being required by the States in providing for restraint of hazards "which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this Act."

The State maintains that there is no significant difference between the use of "substantial probability" and "reasonable expectation" in an imminent danger situation and that the crucial difference between a serious violation and an imminent danger situation is the immediacy of the hazard. To that end, the State definition for imminent danger incorporates the concept of immediacy as stated in the Federal Act i.e. that such an incident could occur "immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this chapter."

(b) Washington has also revised its provision in section 24(3) of the State Act on effective dates of standards adopted by the State. As approved, the legislation provided for a minimum 30 day-maximum 180 day delay in the effective date of standards. As enacted, the legislation retains the 30 day period but eliminates any reference to a maximum time period thereby allowing more than a 6 month delay in the effective date of standards adopted by the State. Such an extended period however can only be made after a finding by the Director that the delay is reasonably necessary to afford affected employers a reasonable opportunity to meet the requirements of the standard.

3. *Location of supplement for inspection and copying.* A copy of the supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Associate Assistant Secretary for Regional Programs, Room 850, 1726 M Street, NW., Washington, D.C. 20210; Office of the Assistant Regional Director, Occupational Safety and Health Administration, 1804 Smith Tower Building, 506 Second Avenue, Seattle, Washington 98104; Supervisor, Division of Safety, Department of Labor and Industries, 308 East Fourth Avenue, Post Office Box 207, Olympia, Washington 98504.

4. *Public participation.* Interested persons are hereby given until May 29, 1974, to submit written data, views and arguments concerning the legislation. Such data, views, and arguments should address the matter of whether or not the Washington Industrial Safety and Health Act conforms with the State's assurances regarding the proposed bill submitted as part of its previously ap-

proved plan. General comments not related to § 1952.123(a) of the developmental schedule are not appropriate. The submission should be addressed to the Associate Assistant Secretary for Regional Programs, Room 850, 1726 M Street, NW., Washington, D.C. 20210, and will be available for inspection and copying at this address.

Any interested person(s) may request an informal hearing concerning the enacted legislation, whenever particularized written objections thereto are filed within the time allowed for comments specified above. If, in the opinion of the Assistant Secretary, substantial objections which warrant further discussion are submitted, a formal or informal hearing on the subjects and issues involved may be held.

The Assistant Secretary shall thereafter consider all relevant comments and arguments and issue his decision as to the approval or disapproval of the supplement, make appropriate amendments to Subpart F of Part 1952 and initiate appropriate further proceedings if necessary.

(Secs. 8(g), 18, Pub. L. 91-596, 84 Stat. 1600, 1608 (29 U.S.C. 657(g), 667))

Signed at Washington, D.C. this 24th day of April 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.74-9731 Filed 4-26-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 74-SO-35]

HRS/H-19 MILITARY SURPLUS HELICOPTERS

Proposed Airworthiness Directives

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Sikorsky Helicopters. It has been determined that ADs applicable to S-55 Series Helicopters also apply to HRS/H-19 Series Helicopters. The proposed Airworthiness Directive would require that all HRS/H-19 Series Helicopters comply with all ADs issued on S-55 Series Helicopters.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Regional Counsel, Attention: Rules Docket, PO Box 20636, Atlanta, Georgia 30320. All communications received on or before May 29, 1974, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket, for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

SIKORSKY. Applies to all HRS/H-19 Series Helicopters certificated in all categories. Complaince with each of the following Airworthiness Directives for the Sikorsky S-55 Series Helicopter is required, except that the effective date of each will be the effective date of this Airworthiness Directive: 54-1-3, 54-13-1, 54-16-1, 54-19-2, 54-20-2, 55-25-4, 56-16-3, 56-23-3, 60-13-4, 63-5-2, 65-8-2, 66-4-3, 67-17-6, 67-29-7, and 71-26-3.

Issued in East Point, Ga., on April 17, 1974.

DUANE W. FREER,
Acting Director,
Southern Region.

[FR Doc.74-9677 Filed 4-26-74;8:45 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 74-9; Notice 1]

MOTOR VEHICLE SAFETY STANDARDS

Child Restraint Standard

Correction

In FR Doc. 74-4545 appearing at page 7959, in the issue of Friday, March 1, 1974, make the following changes on page 7965:

1. The drawing on the left should be designated as "Fig. 6";

2. In the second line of paragraph S6.3.2, "*VG*" should read "*17*".

CIVIL SERVICE COMMISSION

[5 CFR Parts 890, 891]

HEALTH BENEFITS

Retired Employees and Survivors; Correction

In the notice in the FEDERAL REGISTER of April 19, 1974 (FR Doc. 74-9062) appearing at page 13975, the date of receipt of requests in § 890.604, 9th line from the bottom, was incorrectly printed as "January 1, 1974". It should read "January 1, 1975."

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

[FR Doc.74-9746 Filed 4-26-74;8:45 am]

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Notice of Meeting

APRIL 23, 1974.

The USAF Scientific Advisory Board Spring General Meeting will be held on May 21, 1974, from 9 a.m. until 5:25 p.m., and on May 22, 1974, from 8:30 a.m. until 12:30 p.m., at the U.S. Air Force Academy, Colorado Springs, CO. The meeting will be closed to the public.

The Board will receive classified briefings on topics of current Air Force interest.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-8404.

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

[FR Doc.74-9680 Filed 4-26-74;8:45 am]

Office of the Secretary

DEPARTMENT OF DEFENSE WAGE COMMITTEE

Notice of Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, effective January 5, 1973, notice is hereby given that meetings of the Department of Defense Wage Committee will be held on:

Tuesday, May 7, 1974
Tuesday, May 14, 1974
Tuesday, May 21, 1974
Tuesday, May 28, 1974

These meetings will convene at 9:45 a.m. and will be held in Room 1E-801, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and make recommendations to the Assistant Secretary of Defense (Manpower and Reserve Affairs) on all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Pub. L. 92-392.

At these scheduled meetings, the Committee will consider wage survey specifications, wage survey data, local reports and recommendations, statistical analyses and proposed pay schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463 and 5 U.S.C. 532(b) and (4), the Assistant Secretary of Defense (Manpower and Reserve Affairs) has determined that these meetings will be closed to the public.

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Chairman, Department of Defense Wage Committee, Room 3D-281, The Pentagon, Washington, D.C.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD(C).

APRIL 24, 1974.

[FR Doc.74-9689 Filed 4-26-74;8:45 am]

DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

Notice of Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, effective January 5, 1973, notice is hereby given that closed meetings of the DIA Scientific Advisory Committee will be held at Pomponio Plaza, 1735 N. Lynn St., Arlington, Virginia on:

Monday, May 6, 1974
Tuesday, May 7, 1974

These meetings commencing at 9 a.m. will be to discuss classified matters.

Dated: April 24, 1974.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

[FR Doc.74-9735 Filed 4-26-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[INT DES 74-46]

PROPOSED BOMBAY HOOK WILDERNESS AREA, DELAWARE

Notice of 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 Bombay Hook Wilderness Area, located in Delaware, and invites written comments on or before June 13, 1974.

The proposal recommends that two small islands, comprising approximately 120 acres of the Bombay Hook National Wildlife Refuge in Kent County, Delaware, be designated as wilderness within the National Wilderness Preservation System.

Copies of the draft statement are available for inspection at the following locations:

Bureau of Sport Fisheries and Wildlife
John W. McCormack P.O. and Courthouse
Boston, Massachusetts 02109

Headquarters
Bombay Hook National Wildlife Refuge
R.D. 1, Box 147
Smyrna, Delaware 19977

Bureau of Sport Fisheries and Wildlife
Office of Environmental Coordination
Department of the Interior
Room 2246
18th and C Streets, NW.
Washington, D.C. 20240

Single copies may be obtained by writing the Chef, Office of Environmental Coordination, Bureau of Sport Fisheries and Wildlife, Department of the Interior, Washington, D.C. 20240. Comments concerning the proposed action should also be address to the Chief, Office of Environmental Coordination. Please refer to the statement number above.

Dated: April 23, 1974.

ROYSTON C. HUGHES,
Assistant Secretary of the Interior.

[FR Doc.74-9700 Filed 4-26-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

GRAIN STANDARDS

Illinois Grain Inspection Point

Statement of considerations. The Schneider Inspection Service, Cedar Lake, Indiana, is designated to operate as an official inspection agency in accordance with the provisions of section 7(f) of the U.S. Grain Standards Act (7 U.S.C. 79(f)).

The Schneider Inspection Service plans to locate one or more of its licensed grain inspectors at Sheldon, Illinois, and has requested that its assignment be amended in accordance with § 26.99(b) of the regulations (7 CFR 26.99(b)) to add Sheldon, Illinois, as a designated inspection point. By definition, a designated inspection point is a city, town, or other location assigned under the regulations to an official inspection agency for the conduct of official inspections, and within which the official inspection agency or one or more of its license inspectors is located (7 CFR 261.1(b)(13)).

Notice is hereby given that the Agricultural Marketing Service has under consideration the proposed request from the Schneider Inspection Service to amend the assignment of the Schneider Inspection Service to add Sheldon, Illinois, as a designated inspection point under the U.S. Grain Standards Act.

Opportunity is hereby afforded all interested persons to submit written views

and comments with respect to this matter to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250. All material submitted should be in duplicate and mailed to the Hearing Clerk not later than May 29, 1974. All materials submitted pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Hearing Clerk and to all other information available to the U.S. Department of Agriculture before final determination is made with respect to this matter.

Done in Washington, D.C. on: April 24, 1974.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.74-9750 Filed 4-26-74;8:45 am]

Agricultural Stabilization and Conservation Service

[Docket Nos. SH-325, 326]

MAINLAND SUGARCANE AREAS; LOUISIANA AND FLORIDA

Hearings on Wages and Prices and Designation of Presiding Officers

Pursuant to the authority contained in section 301(c)(1) and 301(c)(2) of the Sugar Act of 1948, as amended (61 Stat. 929; 7 U.S.C. 1131), and in accordance with the rules of practice and procedure applicable to wage and price proceedings (7 CFR 802.1 et seq.), notice is hereby given that public hearings will be held as follows:

At Houma, Louisiana (Docket No. SH-325), on May 20, 1974, in the American Legion Home, Legion Avenue, beginning at 9:30 a.m.; and

At Belle Glade, Florida (Docket No. SH-326), on May 23, 1974, at the Everglades Experiment Station, State Road 80, beginning at 9:30 a.m.

The purpose of these hearings is to receive evidence likely to be of assistance to the Secretary of Agriculture in determining, (1) pursuant to the provisions of section 301(c)(1) of the act, whether the wage rates established for Louisiana sugarcane fieldworkers in the wage determination which became effective September 17, 1973 (38 FR 25427 and 38 FR 28059), and for Florida sugarcane fieldworkers in the determination which became effective October 1, 1973 (38 FR 27377), continue to be fair and reasonable under existing circumstances, or whether such determination(s) should be amended; and (2) pursuant to the provisions of section 301(c)(2) of the act, fair and reasonable prices to be paid for the 1974 crops of sugarcane in Florida and Louisiana, under either purchase or toll agreements, by producers who process sugarcane grown by other producers and who apply for payment under the act on their own sugarcane production.

In the interest of obtaining the best possible information, all interested persons are requested to appear at the hearings to express their views and present appropriate data in regard to wages and prices. While testimony on all pertinent points is desired, it is especially requested that witnesses be prepared to offer information and recommendations on the following matters regarding fair wages for fieldworkers and fair prices for sugarcane:

I. LOUISIANA

A. *Wages.* Wage rate differentials among different classification of workers.

B. *Prices.* 1. Periods to be used to determine the season's average prices of raw sugar and blackstrap molasses.

2. Matters pertaining to other pricing bases, including recommendations on whether processor-refiners ought to be prohibited from electing the "delivered average price" option as the basis for settlement with producers for their sugarcane.

3. Proposed expanded Standard Sugarcane Purity Factor table used in the conversion of net sugarcane to standard sugarcane (recommendations should be supported by factual data).

II. FLORIDA

A. *Wages.* 1. Need for additional worker classifications, such as workers employed in mechanical harvesting operations.

2. Wage rate differentials among different classifications of workers.

3. Statements from each employer of foreign workers of total tons of cane cut by hand, total amount of wages paid cane cutters, total amount of "build up" pay, total hours worked, and average earnings per worker per hour, by months, for the 1973-74 crop.

4. Statement from each employer of foreign workers of practice followed in determining compensable working time, method used in keeping time records for cane cutters employed on a piecework basis, and method used in advising workers of number of hours recorded (copies of cane cutter's ticket and pay receipt should accompany statement).

B. *Prices.* In the statement of bases and considerations accompanying the 1973 fair price determination, the Department stated that testimony and recommendations would again be invited with regard to implementing the proposed change regarding trash determinations which would place trash tests for mechanically harvested cane on an individual producer basis. The Florida industry harvested 18 percent of the 1973 crop by machines, compared to 15 percent in 1972. While it is recognized that this percentage is inflated due to the smaller 1973 crop, the number of machines in use nevertheless increased from 50 to 80 or by 60 percent. Inasmuch as several Florida sugar companies have publicly stated that total mechanization is their goal for the future, the Department believes it necessary to implement a new trash sampling procedure and requests that witnesses present proposals as to how to cope with the wide variation of percentages of trash in cane harvested by different makes of mechanical harvesters.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. (7 CFR 1.27(b)).

The hearings, after being called to order at the times and places mentioned herein, may be continued from day to day within the discretion of the presiding officers and may be adjourned to a later day or to a different place without notice other than the announcement thereof at the hearings by the presiding officers.

A. B. Calcagnini, L. L. Sommerville, R. R. Stansberry, Jr., J. E. Agnew, Jr., W. H. Ragsdale, and T. M. Popp are hereby designated as presiding officers to conduct either jointly or severally the foregoing hearings.

Signed at Washington, D.C., on April 23, 1974.

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

[FR Doc.74-9694 Filed 4-26-74;8:45 am]

Food and Nutrition Service

[FSP No. 1974-2.2, Amdt. 27]

FOOD STAMP PROGRAM

Maximum Monthly Allowable Income Standards and Basis of Coupon Issuance—Alaska

Section 7(a) of the Food Stamp Act, as amended, requires that the value of the coupon allotment be adjusted semi-annually by the nearest increment that is a multiple of two to reflect changes in the prices of food published by the Bureau of Labor Statistics. Prior to the amendment to the Act requiring semi-annual adjustment of the value of the coupon allotment, the adjustments were made at the beginning of each fiscal year, i.e., in July, based on the cost of the economy food plan in the preceding December. With the enactment of the semi-annual adjustment, the law specified that the first adjustment be made in January 1974 to reflect changes in food prices through August 1973. A similar procedure is used for the July 1, 1974, adjustment in the value of the coupon allotment which is based on the cost of the economy food plan in February 1974. Therefore, Notice FSP No. 1974-2.1, which is issued pursuant to a part of Subchapter C—Food Stamp Program, under Title 7, Chapter II Code of Federal Regulations, is superseded, effective July 1, 1974, by this Notice FSP No. 1974-2.2.

The total monthly coupon allotment for some households is not divisible by four. This results in total coupon allotments of uneven dollar amounts for those households which choose to purchase one-fourth or three-fourths of their total coupon allotment. For such households, the State agency shall round the face value of one-fourth or three-fourths of the total coupon allotment up

to the next higher whole dollar amount and shall not change the purchase requirement for such allotments.

In view of the need for placing this notice into effect on July 1, 1974, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this notice. Notice FSP No. 1974–2.2 reads as follows:

MAXIMUM MONTHLY ALLOWABLE INCOME STANDARDS AND BASIS OF COUPON ISSUANCE; ALASKA

As provided in § 271.3(b), households in which all members are included in the federally aided public assistance or general assistance grant shall be determined to be eligible to participate in the program while receiving such grants without regard to the income and resources of the household members.

The maximum allowable income standards for determining eligibility of all other applicant households, including those in which some members are recipients of federally aided public assistance, or general assistance, in Alaska, shall be the higher of:

(1) The maximum allowable monthly income standards for each household size which were in effect in Alaska prior to July 29, 1971, or

(2) The following maximum allowable monthly income standards:

Household Size	*Maximum Allowable Monthly Income Standards—Alaska*
One	$229
Two	353
Three	507
Four	640
Five	760
Six	873
Seven	987
Eight	1,100
Each additional member	+93

"Income" as the term is used in the notice is as defined in paragraph (c) of § 271.3 of the Food Stamp Program Regulations.

Pursuant to section 7 (a) and (b) of the Food Stamp Act, as amended (7 U.S.C. 2016, Pub. L. 91–671), the face value of the monthly coupon allotment which the State agency is authorized to issue to any household certified as eligible to participate in the Program and the amount charged for the monthly coupon allotment in Alaska are as follows:

Monthly coupon allotments and purchase requirements—Alaska

Monthly net income	For a household of— 1 person	2 persons	3 persons	4 persons	5 persons	6 persons	7 persons	8 persons
	The monthly coupon allotment is— $58	$106	$152	$192	$228	$262	$296	$330
	And the monthly purchase requirement is—							
0 to $19.99	0	0	0	0	0	0	0	0
$20 to $29.99	1	1	0	0	0	0	0	0
$30 to $39.99	4	4	4	4	5	5	5	5
$40 to $49.99	6	7	7	7	8	8	8	8
$50 to $59.99	8	10	10	10	11	11	12	12
$60 to $69.99	10	12	13	13	14	14	15	16
$70 to $79.99	12	15	16	16	17	17	18	19
$80 to $89.99	14	18	19	19	20	21	21	22
$90 to $99.99	16	21	21	22	23	24	25	26
$100 to $109.99	18	23	24	25	26	27	28	29
$110 to $119.99	21	26	27	28	29	31	32	33
$120 to $129.99	24	29	30	31	33	34	35	36
$130 to $139.99	27	32	33	34	36	37	38	39
$140 to $149.99	30	35	36	37	39	40	41	42
$150 to $169.99	33	38	40	41	42	43	44	45
$170 to $189.99	39	44	46	47	48	49	50	51
$190 to $209.99	44	50	52	53	54	55	56	57
$210 to $229.99	44	56	58	59	60	61	62	63
$230 to $249.99		62	64	65	66	67	68	69
$250 to $269.99		68	70	71	72	73	74	75
$270 to $289.99		74	76	77	78	79	80	81
$290 to $309.99		80	82	83	84	85	86	87
$310 to $329.99		80	88	89	90	91	92	93
$330 to $359.99		80	94	95	96	97	98	99
$360 to $389.99			103	104	105	106	107	108
$390 to $419.99			112	113	114	115	116	117
$420 to $449.99			121	122	123	124	125	126
$450 to $479.99			130	131	132	133	134	135
$480 to $509.99			130	140	141	142	143	144
$510 to $539.99				149	150	151	152	153
$540 to $569.99				158	159	160	161	162
$570 to $599.99				164	168	169	170	171
$600 to $629.99				164	177	178	179	180
$630 to $659.99				164	186	187	188	189
$660 to $689.99					195	196	197	198
$690 to $719.99					196	205	206	207
$720 to $749.99					196	214	215	216
$750 to $779.99					196	223	224	225
$780 to $809.99						226	233	234
$810 to $839.99						226	242	243
$840 to $869.99						226	251	252
$870 to $899.99						226	256	261
$900 to $929.99							256	270
$930 to $959.99							256	279
$960 to $989.99							256	288
$990 to $1,019.99								286
$1,020 to $1,049.99								284
$1,050 to $1,079.99								286
$1,080 to $1,109.99								286

FOR ISSUANCE TO HOUSEHOLDS OF MORE THAN EIGHT PERSONS USE THE FOLLOWING FORMULA

A. *Value of the total allotment.* For each person in excess of eight, add $28 to the monthly coupon allotment for an eight-person household.

B. *Purchase requirement.* 1. Use the purchase requirement shown for the eight-person household for households with incomes of $959.99 or less per month.

2. For households with monthly income of $960 or more, use the following formula:

For each $30 worth of monthly income (or portion thereof) over $959.99, add $9 to the monthly purchase requirement shown for the eight-person household with an income of $959.99.

3. To obtain maximum monthly purchase requirements for households of more than eight persons, add $24 for each person over eight to the maximum purchase requirement shown for an eight-person household.

Effective date. The provisions of this notice shall become effective on July 1, 1974.

(Catalog of Federal Domestic Assistance Program No. 10,551, National Archives Reference Services)

J. PHIL CAMPBELL,
Acting Secretary.

APRIL 22, 1974.

[FR Doc.74–9595 Filed 4–26–74;8:45 am]

[FSP No. 1974–3.2, Amdt. 28]

FOOD STAMP PROGRAM

Maximum Monthly Allowable Income Standards and Basis of Coupon Issuance—Hawaii

Section 7(a) of the Food Stamp Act, as amended, requires that the value of the coupon allotment be adjusted semi-annually by the nearest increment that is a multiple of two to reflect changes in the prices of food published by the Bureau of Labor Statistics. Prior to the amendment to the Act requiring semi-annual adjustment of the value of the coupon allotment, the adjustments were made at the beginning of each fiscal year, i.e., in July, based on the cost of the economy food plan in the preceding December. With the enactment of the semi-annual adjustment, the law specified that the first adjustment be made in January 1974 to reflect changes in food prices through August 1973. A similar procedure is used for the July 1, 1974, adjustment in the value of the coupon allotment which is based on the cost of the economy food plan in February 1974. Therefore, Notice FSP No. 1974–3.1, which is issued pursuant to a part of Subchapter C—Food Stamp Program, under Title 7, Chapter II Code of Federal Regulations, is superseded, effective July 1, 1974, by this Notice FSP No. 1974–3.2.

The total monthly coupon allotment for some households is not divisible by four. This results in total coupon allotments of uneven dollar amounts for those households which choose to purchase one-fourth or three-fourths of their total coupon allotment. For such households, the State agency shall round the face value of one-fourth or three-fourths of the total coupon allotment up to the next higher whole dollar amount and shall not change the purchase requirement for such allotments.

In view of the need for placing this notice into effect on July 1, 1974, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this notice. Notice FSP No. 1974–3.2 reads as follows:

MAXIMUM MONTHLY ALLOWABLE INCOME STANDARDS AND BASIS OF COUPON ISSUANCE: HAWAII

As provided in § 271.3(b), households in which all members are included in the federally aided public assistance or general assistance grant shall be determined to be eligible to participate in the program while receiving such grants without regard to the income and resources of the household members.

The maximum allowable income standards for determining eligibility of all other applicant households, including those in which some members are recipients of federally aided public assistance or general assistance, in Hawaii, shall be the higher of:

(1) The maximum allowable monthly income standards for each household size which were in effect in Hawaii prior to July 29, 1971, or

(2) The following maximum allowable monthly income standards:

Household Size	*Maximum Allowable Monthly Income Standards—Hawaii*
One	$218
Two	340
Three	487
Four	620
Five	733
Six	847
Seven	953
Eight	1,060
Each additional Member	+86

"Income" as the term is used in the notice is as defined in paragraph (c) of § 271.3 of the Food Stamp Program Regulations.

Pursuant to section 7 (a) and (b) of the Food Stamp Act, as amended (7 U.S.C. 2016, Pub. L. 91–671), the face value of the monthly coupon allotment which the State agency is authorized to issue to any household certified as eligible to participate in the Program and the amount charged for the monthly coupon allotment in Hawaii are as follows:

Monthly coupon allotments and purchase requirements—Hawaii

Monthly net income	For a household of—							
	1 person	2 persons	3 persons	4 persons	5 persons	6 persons	7 persons	8 persons
	The monthly coupon allotment is—							
	$56	$102	$146	$186	$220	$254	$286	$318
	And the monthly purchase requirement is—							
0 to $19.99	0	0	0	0	0	0	0	0
$20 to $29.99	1	1	0	0	0	0	0	0
$30 to $39.99	4	4	4	4	5	5	5	5
$40 to $49.99	6	7	7	7	8	8	8	8
$50 to $59.99	8	10	10	10	11	11	12	12
$60 to $69.99	10	12	13	13	14	14	15	16
$70 to $79.99	12	15	16	16	17	17	18	19
$80 to $89.99	14	18	19	19	20	21	21	22
$90 to $99.99	16	21	21	22	23	24	25	26
$100 to $109.99	18	23	24	25	26	27	28	29
$110 to $119.99	21	26	27	28	29	31	32	33
$120 to $129.99	24	29	30	31	33	34	35	36
$130 to $139.99	27	32	33	34	36	37	38	39
$140 to $149.99	30	35	36	37	39	40	41	42
$150 to $169.99	33	38	40	41	42	43	44	45
$170 to $189.99	39	44	46	47	48	49	50	51
$190 to $209.99	42	50	52	53	54	55	56	57
$210 to $229.99	44	56	58	59	60	61	62	63
$230 to $249.99		62	64	65	66	67	68	69
$250 to $269.99		68	70	71	72	73	74	75
$270 to $289.99		74	76	77	78	79	80	81
$290 to $309.99		76	82	83	84	85	86	87
$310 to $329.99		76	88	89	90	91	92	93
$330 to $359.99		76	94	95	96	97	98	99
$360 to $389.99			103	104	105	106	107	108
$390 to $419.99			112	113	114	115	116	117
$420 to $449.99			121	122	123	124	125	126
$450 to $479.99			124	131	132	133	134	135
$480 to $509.99			124	140	141	142	143	144
$510 to $539.99				149	150	151	152	153
$540 to $569.99				158	159	160	161	162
$570 to $599.99				158	168	169	170	171
$600 to $629.99				158	177	178	179	180
$630 to $659.99					186	187	188	189
$660 to $689.99					188	196	197	198
$690 to $719.99					188	205	206	207
$720 to $749.99					188	214	215	216
$750 to $779.99						218	224	225
$780 to $809.99						218	233	234
$810 to $839.99						218	242	243
$840 to $869.99						218	246	252
$870 to $899.99							246	261
$900 to $929.99							246	270
$930 to $959.99							246	274
$960 to $989.99								274
$990 to $1019.99								274
$1020 to $1049.99								274
$1050 to $1079.99								274

FOR ISSUANCE TO HOUSEHOLDS OF MORE THAN EIGHT PERSONS USE THE FOLLOWING FORMULA

A. *Value of the total allotment.* For each person in excess of eight, add $26 to the monthly coupon allotment for an eight-person household.

B. *Purchase requirement.* 1. Use the purchase requirement shown for the eight-person household for households with incomes of $929.99 or less per month.

2. For households with monthly income of $930 or more, use the following formula:

For each $30 worth of monthly income (or portion thereof) over $929.99, add $9 to the monthly purchase requirement shown for the eight-person household with an income of $929.99.

3. To obtain maximum monthly purchase requirements for households of more than eight persons, add $22 for each person over eight to the maximum purchase requirement shown for an eight-person household.

Effective date. The provisions of this notice shall become effective on July 1, 1974.

(Catalog of Federal Domestic Assistance Program No. 10.551, National Archives Reference Services)

J. PHIL CAMPBELL,
Acting Secretary.

APRIL 22, 1974.

[FR Doc.74–9596 Filed 4–26–74;8:45 am]

Packers and Stockyards Administration

EVANSVILLE LIVESTOCK SALE PAVILION EVANSVILLE, INDIANA, ET AL.

Proposed Posting of Stockyards

The Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards Administration, United States Department of Agriculture, has information

that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

IN—153 Evansville Livestock Sale Pavilion Evansville, Indiana
MN—165 Wisconsin Feeder Pig Marketing Cooperative Perham, Minnesota
MS—154 Cow Palace, Inc. McComb, Mississippi
MS—153 Tri-County Stockyards, Inc. Tupelo, Mississippi
MO—238 Ireland & Thorne Livestock Market Center, Inc. Trenton, Missouri
OK—192 Poor-Boy Livestock Auction Wister, Oklahoma
TN—172 Sampson & Maxwell Livestock Auction Lewisburg, Tennessee
TX—306 Mesquite Livestock Auction Mesquite, Texas
WY—113 Star Valley Livestock Freedom, Wyoming

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), proposes to issue a rule designating the stockyards named above as posted stockyards subject to the provisions of the Act as provided in Section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule, may do so by filing them with the Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards Administration, United States Department of Agriculture, Washington, D.C. 20250, on or before May 14, 1974.

All written submissions made pursuant to this notice shall be made available for public inspection at such times and places in a manner convenient to the public business (7 U.S.C. 1.27(b)).

Done at Washington, D.C., this 23d day of April 1974.

EDWARD L. THOMPSON,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc.74-9695 Filed 4-26-74;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

INDIANA STATE DEPARTMENT OF MENTAL HEALTH ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before May 20, 1974.

Amended regulations issued under cited Act, as published in the February 24, 1972 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 74-00249-01-11000. Applicant: Indiana State Department of Mental Health, 1315 West 10th Street, Indianapolis, Indiana 46202. Article: Gas Chromatograph - Mass Spectrometer, LKB 9000. Manufacturer: LKB Produkter AB, Sweden. Intended Use of Article: The article is intended to be used in investigations relating to:

(1) Causes of mental and physical retardation which are genetically determined in children,

(2) Causes of unexplained ketoacidoses in the newborn,

(3) Investigation of jaundice in the new-born and metabolism of bilirubin, and

(4) Study of the neurochemistry and therapy of seizure disorders.

The article will also be used for education at the graduate level. Students preparing themselves for careers in analytical biochemistry with emphasis on intermediary metabolism or on drug metabolism will use the article in carrying out their major research projects. In addition, the article will be used by research fellows, graduate students, and a number of medical students for various phases of work in mass-spectrometry. Application received by Commissioner of Customs: December 19, 1973.

Docket Number: 74-00250-33-46040. Applicant: Roswell Park Memorial Institute, Health Research Inc., 666 Elm Street, Buffalo, New York 14203. Article: Electron Microscope, Model Elmiskop 101. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is intended to be used in a wide range of research projects which include the following:

(1) Examination of human leukemia cells from A.L.L. and lymphosarcoma converted to leukemia to attempt to detect morphological differences in order to prognosticate,

(2) Examination of Ewing's Sarcoma and Reticulum Cell Sarcoma of the bone in an attempt to differentiate these two in order to "tailor-make" treatments.

(3) Examination of human lymphomas to detect morphological differences and correlate with prognosis,

(4) Examination of breast cancer,

(5) Expansion of pathological sources to use electron microscopy diagnosis on difficult diagnostic cases by light microscopy,

(6) Development of a hydration chamber for both transmission and scanning electron microscopy, and

(7) Localization of carcinoembryonic antigen on tumor cells, either from surgical specimens or from tissue culture using immuno electron microscopy techniques,

In addition, the article is to be used in the course Techniques of Electron Microscopy in which students will learn the principals of fixation, dehydration, and embedding of tissues for electron microscopy and practical training in the use of the electron microscope will be given. Application received by Commissioner of Customs: December 18, 1973.

Docket Number: 74-00252-75-40500. Applicant: The University of Chicago, The James Franck Institute, 5640 S. Ellis Avenue, Chicago, Illinois 60637. Article: Narrow Gap Interferometer. Manufacturer: Electro Photonics Limited, United Kingdom. Intended Use of Article: The article is intended to be used to frequency tune picosecond duration light pulses from an existing mode locked oscillator. These light pulses will be used to study reaction kinetics and energy transfer in photoexcited molecules. In particular, the cis-trans isomerization in linear polyene molecules will be studied by observing Raman scattering of light off the photoexcited molecule. Application received by Commissioner of Customs: December 14, 1973.

Docket Number: 74-00254-33-46040. Applicant: U.S. Public Health Service Hospital, Bay Street and Vanderbilt Avenue, Staten Island, New York 10304. Article: Electron Microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, West Germany. Intended Use of Article: The article is intended to be used in studies of biological materials consisting almost exclusively of cardiac tissue obtained from experimental animals (canine, rabbit). Experiments to be conducted include: an examination of the ultrastructural changes in canine cardiac conduction system under different physiological and pharmacological conditions. Application received by Commissioner of Customs: December 17, 1973.

Docket Number: 74-00255-33-46040. Applicant: University of Massachusetts Medical School, 55 North Lake Avenue, Worcester, Massachusetts 01604. Article: Electron Microscope Model EM 301. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended Use of Article: The article is intended to be used for further research on the process of wound healing specifically, the identification of the intracellular mechanisms responsible for the "pull" in the closing of wounds. The article will also be used for research on atherosclerosis and coronary disease which concerns the study of the mechanism of degenerative changes in the coronary arteries. Application received by Commissioner of Customs: December 20, 1973.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

A. H. STUART,
Director, Special Import Programs Division.

[FR Doc.74-9670 Filed 4-26-74;8:45 am]

MILLARD FILLMORE HOSPITAL AND PRESBYTERIAN-UNIVERSITY OF PENNSYLVANIA MEDICAL CENTER

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 987). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before May 20, 1974.

Amended regulations issued under cited Act, as published in the February 24, 1972 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket number: 74-00251-33-46040. Applicant: Millard Fillmore Hospital, 3 Gates Circle, Buffalo, New York 14209. Article: Electron Microscope, Model EM-10. Manufacturer: Carl Zeiss, West Germany. Intended Use of Article: The article is intended to be used to study the pathogenesis of primary and secondary human renal diseases. The principal applications will be concerned with the identification of ultrastructural alterations in the subcellular fractions of visceral epithelial cells, endothelial cells, mesangial cells, and tubular epithelial cells of glomeruli. In addition, the article will be used in the training of pathology residents in the Department of Pathology at the Hospital. Application received by Commissioner of Customs: December 14, 1973.

Docket Number: 74-00253-33-46040. Applicant: Presbyterian-University of Pennsylvania Medical Center, 51 N. 39th Street, Philadelphia, Pennsylvania 19104. Article: Electron Microscope, Model EM 301. Manufacturer: Philips Electronic Instruments, NVD, The Netherlands. Intended use of article: The article is intended to be used for studies of isolated blood vessels, heart and skeletal muscle from normal experimental subjects as well as diseased organs. The major objective of the investigations is to determine the source of calcium used for contraction in various muscles and the cellular loci where calcium is sequestered when muscle is relaxed. The investigation of diseased blood vessels will be used to determine the sites of deposition of calcium in atherosclerosis, while similar studies on blood vessels will be directed towards determining the fundamental defect in producing high blood pressure. The article will also be used in the research training of graduate students and post-doctoral fellows. Application received by Commissioner of Customs: December 19, 1973.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

A. H. STUART,
Director, Special Import Programs Division.

[FR Doc.74-9669 Filed 4-26-74;8:45 am]

UNIVERSITY OF IOWA HOSPITALS

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 74-00023-33-90000. Applicant: University of Iowa Hospitals & Clinics, Newton Road, Iowa City, Iowa 52242. Article: EMI Scanner System. Manufacturer: EMI Limited, United Kingdom. Intended Use of Article: The article will be used to evaluate a diagnostic technique based on studying differential absorption coefficients of tissue densities within the skull. Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is a newly developed system which is designed to provide precise transverse axial tomography. The Department of Health, Education, and Welfare (HEW) advised in its memorandum dated October 5, 1973 that the speed, resolution and accuracy of the article is pertinent to the applicant's use in collaborative studies of evaluation and in clinical trials intended to study the potential of the article to diagnose with greater reliability than present instrumentation distinguishing tumors from infarcts. HEW also advised that it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

A. H. STUART,
Director, Special Import Programs.

[FR Doc.74-9668 Filed 4-26-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

EDUCATIONAL OPPORTUNITY CENTERS

Notice of Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in section 417B of the Higher Education Act of 1965, as amended (20 U.S.C. 1070d-1070d-1), applications are being accepted from institutions of higher education, including institutions with vocational and career education programs, combinations of such institutions, public and private agencies, and, in exceptional cases, secondary schools and secondary vocational schools, for grants under the Educational Opportunity Centers Program (Title IV, HEA, 20 U.S.C. 1070d-1070d-1).

Applications must be received by the U.S. Office of Education Application Control Center on or before May 29, 1974.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue, SW., Washington, D.C. 20202, Attention: 13.543. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than the fifth calendar day prior to the closing date (or if such fifth calendar day is a Saturday, Sunday, or Federal holiday, not later than the next following business day), as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.)

B. *Hand delivered applications.* An application to be hand delivered must be delivered to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand delivered applications will not be accepted by the Application Control Center after 4 p.m. Washington, D.C. time, on the closing date.

C. *Program information and forms.* Information and application forms may be obtained from the Educational Op-

portunity Centers Program, Bureau of Postsecondary Education, Room 4100, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. 20202.

(Catalog of Federal Domestic Assistance Number 13.543; Higher Education—Educational Opportunity Centers Program)

Dated: April 19, 1974.

(20 U.S.C. 1070d–1070d–1)

JOHN OTTINA,
U.S. Commissioner of Education.

[FR Doc.74–9703 Filed 4–26–74;8:45 am]

Health Resources Administration

ARTHRITIS AD HOC REVIEW COMMITTEE

Notice of Establishment

Pursuant to the Federal Advisory Committee Act on October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776) the Health Resources Administration announces the establishment by the Secretary, DHEW, on April 20, 1974, with concurrence by the Office of Management and Budget Committee Management Secretariat, of the following advisory committee:

Designation. Arthritis Ad Hoc Review Committee.

Purpose. The Committee shall review applications for grants for the support of a pilot arthritis program and make recommendations to the National Advisory Council on Regional Medical Programs with respect to the approval and funding of such applications.

Authority for this committee will expire June 30, 1974.

Dated: April 23, 1974.

KENNETH M. ENDICOTT,
Administrator,
Health Resources Administration.

[FR Doc.74–9690 Filed 4–26–74;8:45 am]

Social Security Administration

ADVISORY COUNCIL ON SOCIAL SECURITY

Notice of Public Meeting

Notice is hereby given, pursuant to Pub. L. 92–463, that the Advisory Council on Social Security, established pursuant to section 706(a) of the Social Security Act, as amended, will meet on Friday, May 3, 1974, at 2:00 p.m. to 6:00 p.m. and Saturday, May 4, 1974, from 9:00 a.m. to 5:00 p.m., in Room 5051, HEW North Building, Third and Independence Avenues, Washington, D.C. The meeting is open to the public.

Further information on the Council may be obtained from Mr. John Trout, Executive Secretary of the Council, Room 440 Altmeyer Building, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594–2510. Members of the public planning to attend should send written notice of intent to the Executive Secretary.

(Catalog of Federal Domestic Assistance Program Numbers 13.800–13.807, Social Security Programs)

Dated: April 25, 1974.

JOHN TROUT,
Executive Secretary, Advisory Council on Social Security.

[FR Doc.74–9887 Filed 4–26–74;11:36 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

NATIONAL AIRSPACE SYSTEM

Interim Policy Statement Regarding Application of Area Navigation

Early in 1972 a task force was formed to make an in-depth study of area navigation (RNAV) to determine its potential value in the national airspace system (NAS). The task force was comprised of representatives of commercial and noncommercial aviation groups, and the Federal Aviation Administration (FAA). The findings, concepts developed and recommendations of this group were published in a report titled FAA/Industry NAV Task Force Report. On March 6, 1973 (38 FR 6093), a notice in the FEDERAL REGISTER invited the public and aviation users to obtain copies of this report and to forward their comments concerning it.

All comments have now been reviewed. The comments collectively agree, in essence, with the Task Force Report concerning the need for a thorough examination, study, and validation of various aspects of the proposed RNAV system, and to find answers to specific problems.

Several commenters expressed fear that VORTAC stations would be phased out and shut down. There is no basis in the Report for such a view, especially since some types of airborne RNAV equipment primarily operate on VORTAC signals. Another comment indicated that VLF and Omega would be better systems that RNAV. Actually, VLF and Omega are hyperbolic navigation systems that use very low frequency signals and could be used as navigational data inputs to airborne RNAV equipment in a fashion similar to VORTAC signals.

Generally, the users of light noncommercial aircraft who provided comments believe RNAV equipment is too expensive and in some cases indicated that RNAV equipment is somewhat unreliable. Others believed that an RNAV system would be good for high altitude operations by high speed aircraft, but that the VOR system was still the best for low altitude light aircraft use. One aviation group suggested that RNAV equipment be required only in select areas and optional in all other areas.

Several organizations supported an RNAV system, indicating it has a bright future; others foresaw problems with "slant range correction" and nonslant range equipment operating in the same area; others believed pilot workload would increase.

Comments also indicated the following areas of concern:

1. Narrower route widths by time frames.
2. The one-mile flight technical error factor.
3. Turn anticipation, paralleling in turns, "offset" operations, economical aircraft operation and efficient airspace use with 3D operations.
4. Waypoint storage for terminal operations.
5. 1000-foot vertical separation above FL 290.[1]
6. No designated routes (1982 and beyond period).
7. Metering and sequencing by automation.
8. Economics.
9. A grid system.

The view of one organization is that certain critical airspace operations should require specific minimum RNAV equipment sophistication, with less critical airspace use requiring lesser equipment sophistication. The military services stated a requirement for a longer implementation schedule; they also suggested that RNAV-equipped aircraft not be given priority over non-RNAV-equipped aircraft, and that non-RNAV flights be accommodated in the ATC system.

In conclusion, the comments received did not reveal any significant new facts or issues that were not known and considered by the Task Force in preparing the Report.

Interim policy. The FAA reaffirms the validity of the basic goals in the FAA/Industry RNAV Task Force Report. The agency will therefore proceed with the operational and the research and development efforts necessary to validate the concepts in the report and to continue to plan for an orderly development toward an RNAV-based system. This undertaking could result in a reassessment/reconsideration of certain parts of the Task Force Report and may modify the degree and timing of RNAV implementation. The most important of the initial R&D tasks will be a comprehensive cost/benefit analysis to determine user and system payoffs as a prerequisite to implementation of the plan.

This notice is issued under the authority of section 307(a) and 312(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c).)

Issued in Washington, D.C., on April 19, 1974.

ALEXANDER P. BUTTERFIELD,
Administrator.

[FR Doc.74–9679 Filed 4–26–74;8:45 am]

ADVISORY COUNCIL ON HISTORIC PRESERVATION

CONCEPTUAL DEVELOPMENT PROPOSAL FOR WASHINGTON MALL

Cancellation of Meeting

On Wednesday, April 17, 1974 (39 FR 13802), the Advisory Council on His-

[1] The Report intended that 1,000-foot separation be contingent on the improved altimeter accuracy associated with 3D operations.

toric Preservation published notice of a meeting to be held on May 1–2, 1974, to consider, in accordance with section 106 of the National Historic Preservation Act and section 2(b) of Executive Order 11593, "Protection and Enhancement of the Cultural Environment" (36 FR 8921), the National Park Service's conceptual development proposal for the Washington Mall, a property eligible for inclusion in the National Register of Historic Places, and its effect on the Washington Monument and the Smithsonian Institution, properties included in the National Register. By letter of April 22, 1974, the National Park Service requested the Council to remove this matter from the agenda of the May meeting. As a result, the Chairman has determined that the Council meeting scheduled for May 1–2, 1974, will be canceled.

Dated: April 25, 1974.

ROBERT R. GARVEY, Jr.,
Executive Director.

[FR Doc.74-9832 Filed 4-26-74;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket No. 70-1327]

ALLIED-GENERAL NUCLEAR SERVICES, ET AL.

Notice of Availability of AEC Draft Environmental Statement for Uranium Hexafluoride Facility at the Barnwell Nuclear Fuel Plant

Pursuant to the National Environmental Policy Act of 1969 and the United States Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that a Draft Environmental Statement prepared by the Commission's Directorate of Licensing related to the proposed Uranium Hexafluoride Facility to be constructed by Allied-General Nuclear Services in Barnwell, South Carolina, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW, Washington, D.C., and at the Office of the Barnwell County Board of Commissioners, PO. Box 443, Barnwell, South Carolina 29812. The Draft Statement is also being made available at the Office of the Governor, Division of Administration, Wade Hampton Office Building, Columbia, South Carolina 29201 and at the Regional Clearinghouse, Lower Savannah Regional Planning and Development Commission, P.O. Box 850, Aiken, South Carolina 29801. Copies of the Commission's Draft Environmental Statement may be obtained by request addressed to the U. S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Fuels and Materials, Directorate of Licensing, Regulation.

Allied-General Nuclear Services was formerly known as Allied-Gulf Nuclear Services.

The Applicant's Environmental Report, as supplemented, submitted by Allied-General Nuclear Services, et al, is also available for public inspection at the above-designated locations. Notice of availability of the Applicant's Environmental Report was published in the FEDERAL REGISTER on Saturday, September 23, 1972 (37 FR 20085).

Pursuant to 10 CFR Part 50, Appendix D, interested persons may submit comments on the Applicant's Environmental Report, as supplemented, and the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the Applicant's Environmental Report and the Draft Environmental Statement (local agencies may obtain these documents upon request). Comments are due by June 24, 1974.

Comments by Federal, State, and local officials, or other interested persons, received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C., and the Local Public Document Room at the Office of the Barnwell County Board of Commissioners, P.O. Box 443, Barnwell, South Carolina 29812. 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.

Comments on the Draft Environmental Statement from interested members of the public should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Fuels and Materials, Directorate of Licensing, Regulation.

Dated at Bethesda, Md., this 19th day of April 1974.

For the Atomic Energy Commission.

R. B. CHITWOOD,
Chief, Technical Support Branch, Directorate of Licensing.

[FR Doc.74-9729 Filed 4-26-74;8:45 am]

[Docket Nos. 50-443-50-444]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE ET AL.

Notice and Order Setting Third Prehearing Conference

Before the Atomic Safety and Licensing Board.

By Memorandum and Order dated April 23, 1974, the Atomic Safety and Licensing Board (the Board) (1) set aside the discovery and contentions agreement set out in Paragraph 11 of the Board's First Prehearing Conference Order, (2) ordered the Intervenors to file by May 6, 1974 a pleading either readopting their original contentions or alternatively setting out a revised set of contentions, (3) gave the Applicant and the Staff until May 15, 1974 to respond to the contention pleading of the Intervenors, and (4) ordered that a prehearing conference will be held to hear oral argument on the contentions to determine the issues in controversy.

Accordingly, notice is hereby given that the Board will hold the third prehearing conference in the above captioned proceeding at 10:00 a.m., local time, on Thursday, May 23, 1974 in Probate Court, Rockingham Justice Building, Hampton Road, Exeter, New Hampshire 03833.

Members of the public are invited to attend this prehearing conference as well as the evidentiary hearing to be held at a later date to be fixed by the Board.

The parties are expected to confer in advance of the third prehearing conference, in such manner as they may deem appropriate, and report to the Board at said conference on any stipulations regarding issues in controversy.

Dated this 23d day of April 1974 at Washington, D.C.

By order of the Atomic Safety and Licensing Board.

DANIEL M. HEAD,
Chairman.

[FR Doc.74-9684 Filed 4-26-74;8:45 am]

REGULATORY GUIDES

Notice of Issuance and Availability

The Atomic Energy Commission has issued a new guide in Division 8, Occupational Health Guides, of the Regulatory Guide series. The new guide is Regulatory Guide 8.10, "Operating Philosophy for Maintaining Occupational Radiation Exposures As Low As Practicable."

Regulatory Guides are developed to describe and make available to the public methods acceptable to the Regulatory staff for 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. Some guides also provide guidance to applicants concerning information needed by the staff in the review of applications for permits and licenses.

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 the issued guide (which may be reproduced) 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.

Other Division 8 Regulatory Guides currently being developed include the following:

* Bioassay for Uranium
* Respiratory Protection
* Dosimetry for Criticality Accidents
* Personal Neutron Dosimeters
* Surface Contamination Limits
* Reactor Emergency Monitoring Instrumentation

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

Dated at Bethesda, Md., this 18th day of April 1974.

For the Atomic Energy Commission.

LESTER ROGERS,
Director of Regulatory Standards.

[FR Doc.74-9683 Filed 4-26-74;8:45 am]

TONOPAH TEST RANGE

Trespassing on Commission Property

The notice concerning unauthorized entry into or upon the Tonopah Test Range of the Atomic Energy Commission dated March 23, 1967, appearing at page 5383 of the FEDERAL REGISTER of March 30, 1967 (32 FR 5383, F.R. Doc. 67-3468) is hereby amended to read as follows:

Notice is hereby given that the Atomic Energy Commission, pursuant to section 229 of the Atomic Energy Act of 1954, as amended, as implemented by 10 CFR Part 160 published in the FEDERAL REGISTER on August 16, 1963 (28 FR 8400), prohibits the unauthorized entry, as provided in 10 CFR 160.3, and the unauthorized introduction of weapons or dangerous materials, as provided in 10 CFR 160.4, into or upon certain sites, described hereafter, within the Tonopah Test Range of the Atomic Energy Commission, said Range being a tract of land containing approximately 369, 280 acres located in Nye County, Nev., and more particularly described as follows:

An area approximately 24 x 26 miles beginning at the northeasterly corner of the tract of land hereinafter described, said corner being at approximately latitude 37°-53' N., longitude 116°26' W. on the northerly boundary of the Las Vegas Bombing and Gunnery Range:

Thence westerly 26 miles to a point at approximately latitude 37°53' N., longitude 116°55' N., said point being the southwesterly corner of the herein described tract of land;

Thence southerly 24 miles to a point at approximately latitude 37°33' N., longitude 116°55' N., said point being the suothwesterly corner of the herein described tract of land;

Thence easterly 26 miles to a point approximately latitude 37°33' N., longitude 116°55' N., said point being the southwesterly corner of the herein described tract;

Thence northerly 24 miles to a point approximately latitude 37°53' N., longitude 116°26' W., the point of beginning.

Specifically, the sites covered by this notice are Range Stations located within the Tonopah Test Range, Nye County, Nevada. The Range Stations are described as follows, with appropriate identification posted at each station.

Station No.	Designation	Section [1]	NPM township and range [1]
Able	Main gate	6	T18R47E
1	Observation site	7	T18R47E
2	Radar station	30	T18R47E
3	Control point	6	T28R47E
4	Observation site	17	T28R47E
5	do	32	T28R47E
6	do	9	T38R47E
7	do	15	T38R47E
8	do	9	T38R48E
9-A	Launch and gun site	15	T18R47E
9-C	Hazardous assembly	15	T18R47E
9-D	Explosives storage	15	T18R47E
10	Observation site	11	T18R46E
12	do	2	T18R47E
13	do	24	T18R47E
14	do	17	T28R48E
15	do	21	T28R47E
16	do	6	T28R47E
17	do	31	T18R48E
18	Weather station	32	T18R47E
19	Observation site	12	T18R46E
20	do	25	T18R46E
21	do	18	T28R47E
22	do	31	T28R47E
23	Hard target	22	T18R47E
24	Radar station	25	T28R46E
25	Tracking station	12	T18R46E
Lake	Primary target	16	T18R47E
30	Observation site	28	T38R47E
32	do	27	T38R47E
36	Mobile radar site	3	T18R47E
39	do	34	T18R48E
Airstrip	Landing strip	1	T28R46E
40	Beacon tower	33	T18R48E

[1] Section, township, and range are as projected on USGS Quandrangle Sheet for Goldfield, Nev. (1962).

Notices stating the pertinent prohibitions of 10 CFR 160.3 and 160.4 and penalties of 10 CFR 160.5 will be posted at all entrances of each station and at intervals along each perimeter as provided in 10 CFR 160.6.

Dated at Germantown, Md., this 22d day of April 1974.

JOHN A. ERLEWINE,
General Manager.

[FR Doc.74-9682 Filed 4-26-74;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON H. B. ROBINSON, UNIT 2

Notice of Meeting

APRIL 25, 1974.

In accordance with the purposes of section 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards' Subcommittee on the H. B. Robinson, Unit 2, will hold a meeting on May 21, 1974, in Room 1046, 1717 H Street, NW., Washington, D.C. The purpose of this meeting will be to begin the Committee's formal review of a proposal to change the Operating License for this facility to permit steady state operation at an increased power level. The H. B. Robinson Unit 2 is located near the Town of Hartsville, in Darlington County, South Carolina.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

TUESDAY, MAY 21, 1974, 9:00 A.M.-4:30 P.M.

The Subcommittee will hear presentations by Regulatory Staff and personnel of Carolina Power and Light Company and their representatives and hold discussions with these groups pertinent to issuance of a change to the Operating License for this facility to permit steady state operation at an increased power level.

In connection with the above agenda item, the Subcommittee will hold an executive session beginning at 8:30 a.m. which will involve a discussion of its preliminary views, and an executive session at the end of the day, consisting of an exchange of opinions of the Subcommittee members present and internal deliberations for the purpose of formulation of recommendations to the ACRS. In addition, the Subcommittee may hold closed sessions with the Regulatory Staff and Applicants to discuss privileged information relating to fuel design and performance, if necessary.

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that the executive sessions at the beginning and end of the meeting will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 522(b) and that closed sessions may be held, if necessary, to discuss certain information relating to fuel design and performance which is privileged and falls within exemption (4) of 5 U.S.C. 552(b). It is essential to close such portions of the meeting to protect such privileged information and protect the free interchange of internal views and to avoid undue interference with agency or Committee operation.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statement regarding the agenda item may do so by mailing 25 copies thereof, postmarked no later than May

14, 1974, to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Such comments shall be based upon the H. B. Robinson, Unit 2 Final Facility Description and Safety Analysis Report, Application for Operation at 2300 Mw(t) Core Power (dated February 1, 1974) and related documents on file and available for public inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545 and the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee, during the afternoon portion of the meeting.

(c) Requests for the opportunity to

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on May 20, 1974 to the Office of the Executive Secretary of the Committee (telephone 301–973–5651) between 8:30 a.m. and 5:15 p.m., e.d.t.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) Persons desiring to attend portions of the meeting where proprietary information is to be discussed may do so by providing to the Executive Secretary, Advisory Committee on Reactor Safeguards, 1717 H Street, NW., Washington, D.C. 20545, 7 days prior to the meeting, a copy of an executed agreement with the owner of the proprietary information to safeguard this material.

(i) A copy of the transcript of the open portion of the meeting will be available for inspection during the following workday at the Atomic Energy Commission's Public Document Room, 1717 H Street, N.W., and within nine days at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina. Copies of the transcript may be reproduced in the Public Document Room or may be obtained from Ace Federal Reporters, Inc., 415 Second Street, NE., Washington, D.C. 20002 (telephone 202–547–6222) upon payment of appropriate charges.

(j) On request, copies of the Minutes of the meeting will be made available for inspection at the Atomic Energy Commission Public Document Room, 1717 H Street, N.W., Washington, D.C. 20545 after July 21, 1974. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.74–9858 Filed 4–26–74;10:02 am]

CIVIL AERONAUTICS BOARD

[Docket No. 26310]

ACCEPTANCE AND CARRIAGE OF LIVE ANIMALS IN DOMESTIC AIR FREIGHT TRANSPORTATION

Notice of Postponement of Prehearing Conference and Procedural Step

Notice is hereby given that the prehearing conference in the above-entitled proceeding, which was assigned to be held on May 7, 1974 (39 FR 13803), will be held on May 14, 1974, at 10 a.m. (local time) in Room 726, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned administrative law judge.

Notice is further given that the date for the prehearing conference submissions of parties other than the Bureau of Economics is postponed from April 30, 1974, to May 7, 1974.

Dated at Washington, D.C., April 23, 1974.

[SEAL] LOUIS W. SORNSON,
Administrative Law Judge.

[FR Doc.74–9736 Filed 4–26–74;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

MANAGEMENT-LABOR TEXTILE ADVISORY COMMITTEE

Notice of Meeting

APRIL 25, 1974.

The Management-Labor Textile Advisory Committee will meet at 2:00 p.m. on May 9, 1974, in Room 6802, Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230.

The Committee, which is comprised of 39 members having special expertise in the textile and apparel industry, advises Department officials on conditions in the textile industry and on trade in textiles and apparel.

The agenda for the meeting is as follows:

1. Review of Import Trends.
2. Implementation of Textile Agreements.
3. Report on Conditions in the Domestic Market.
4. Other Business.

A limited number of seats will be available to the public. The public will be permitted to file written statements with the committee before or after the meeting. To the extent time is available at the end of the meeting the presentation of oral statements will be allowed.

Portions of future meetings which concern subjects not listed above will be open to public participation unless it is determined, in accord with section 10(d) of the Federal Advisory Committee Act and the OMB-Justice memorandum on Advisory Committee Management, that specifically identified portions will be closed.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles, Main Commerce Building, U.S. Department of Commerce, Washington, D.C. 20230.

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements and Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.74–9849 Filed 4–26–74;8:45 am]

COST OF LIVING COUNCIL

FOOD INDUSTRY WAGE AND SALARY COMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given that the Food 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 on May 2, 1974.

The meeting will be open to the public on a first-come, first-served basis at 10:00 A.M., in Conference Room 8202, 2025 M Street NW., Washington, D.C.

The agenda will consist of a discussion of policy questions involving food industry wage matters, and if circumstances permit, of food industry wage cases pending before the Cost of Living Council.

The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business.

Issued in Washington, D.C., on April 26, 1974.

HENRY H. PERRITT, Jr.,
Executive Secretary, Cost of Living Council.

[FR Doc.74–9900 Filed 4–26–74;12:25 pm]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-32000/47]

NOTICE OF RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION DATA TO BE CONSIDERED IN SUPPORT OF APPLICATIONS

On November 19, 1973, the Environmental Protection Agency published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 979), and its procedures for implementation. This policy provides that EPA will, upon receipt of every application, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-37, East Tower, 401 M Street, SW., Washington, D.C. 20460.

On or before July 29, 1974, any person who (a) is or has been an applicant, (b) desires to assert a claim for compensation under section 3(c)(1)(D) against another applicant proposing to use supportive data previously submitted and approved, and (c) wishes to preserve his opportunity for determination of reasonable compensation by the Administrator must notify the Administrator and the applicant named in the FEDERAL REGISTER of his claim by certified mail. Every such claimant must include, at a minimum, the information listed in this interim policy published on November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy in regard to usage of existing supportive data for registration will be processed in accordance with existing procedures. Applications submitted under 2(c) will be held for the 60-day period before commencing processing. If claims are not received, the application will be processed in normal procedure. However, if claims are received within 60 days, the applicants against whom the particular claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after July 29, 1974.

APPLICATIONS RECEIVED

EPA File Symbol 8959-RA. Applied Biochemists, Inc., 5300 W. County Line Road, Mequon, Wisconsin 53092. *Tiletrine All Purpose Cleaner, Deodorant, Fungicide & Disinfectant.* Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 1.6%; n-Alkyl (68% C12, 32% C14) dimethly ethylbenzyl ammonium chlorides 1.6%; Sodium Carbonate 3.0%; Tetrasodium ethylenediamine tetraacetate 1.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 960-ROU. Balcom Chemicals, Inc., 240 22nd Street, P.O. Box 667, Greeley, Colorado 80631. *Clean Crop Sevin 5 Dust Insecticide.* Active Ingredients: Carbaryl (1-Naphthyl N-methylcarbamate) 5.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 960-ROG. Balcom Chemicals, Inc., 240 22nd Street, P.O. Box 667, Greeley, Colorado 80631. *Clean Crop Sevin 10 Dust Insecticide.* Active Ingredients: Carbaryl (1-Naphthyl N-methylcarbamate) 10.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1022-UIA. Chapman Chemical Company, P.O. Box 9158, 416 East Brooks Road, Memphis, Tennessee 38109. *Q-San Concentrate 1 To 10.* Active Ingredients: Copper 8-quinolinolate 2.87%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1022-UIL. Chapman Chemical Company, P.O. Box 9158, 416 East Brooks Road, Memphis, Tennessee 38109. *Q-San Ready-to-Use.* Active Ingredients: Copper 8-quinolinolate 0.27%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 100-501. Ciba-Geigy Corporation, Agricultural Division, P.O. Box 11422, Greensboro, North Carolina 27409. *Supracide 2E—Artichokes.* Active Ingredients: O,O-dimethyl phosphorodithioate, S-ester with 4-(mercaptomethyl)-2-methoxy-Δ^2-1,3,4-thiadiazolin-5-one 24.4%; Aromatic petroleum solvent 6.8%; Xylene 60.9%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA Reg. No. 464-34. The Dow Chemical Company, P.O. Box 1706, Midland, Michigan 48640. *Dowfume 75.* Active Ingredients: Ethylene Dichloride 70%; Carbon Tetrachloride 30%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 464-297. The Dow Chemical Company, P.O. Box 1706, Midland, Michigan 48640. *Dow Zectran 25W Insecticide.* Active Ingredients: Mexacarbate [4-(dimethylamino)-3,5-xylyl methylcarbamate] 25%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 464-298. The Dow Chemical Company, P.O. Box 1706, Midland, Michigan 48640. *Dow Zectran 2E Insecticide.* Active Ingredients: Mexacarbate [4-(dimethylamino)-3,5-xylyl methylcarbamate] 22.7%; Aromatic petroleum derivative solvent 30.7%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 464-469. The Dow Chemical Company, P.O. Box 1706, Midland, Michigan 48640. *Dow Zectran CF-24 Insecticide.* Active Ingredients: Mexacarbate [4-(dimethylamino)-3,5-xylyl methylcarbamate] 18.3%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 729-LG. Gulf Oil Company, P.O. Box 1166, Gulf Building, Houston, Texas 77002. *Gulf-Spray Ant Roach Killer Formula 18.* Active Ingredients: o-Isopropoxyphenyl methylcarbamate 0.50%; Petroleum Distillates 86.50%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 1769-ELU. National Chemsearch, Div. of USAchem Inc., 2727 Chemsearch Blvd., Irving, Texas 75062. *National Chemsearch Sprinkle Fly and Roach Bait.* Active Ingredients: 2-(1-Methylethoxy) phenyl methyl carbamate 2.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 3624-RLL. Nova Products, Inc., P.O. Box 5086—Packers Station, Kansas City, Kansas 66119. *Nova-Gard W E.* Active Igredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 3.000%; Related Compounds 0.409%; Aromatic petroleum hydrocarbons 91.471%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 3624-RLA. Nova Products, Inc., P.O. Box 5086—Packers Station, Kansas City, Kansas 66119. *Nova-Gard O S.* Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 3.000%; Related Compounds 0.409%; Aromatic petroleum hydrocarbons 3.971%; Petroleum distillate 92.500%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 3624-RLI. Nova Products, Inc., P.O. Box 5086—Packers Station, Kansas City, Kansas 66119. *Nova CMW-49 Concentrate.* Active Ingredients: Aromatic Petroleum Derivative Solvents 40%; Chlordane, Technical 37%; Malathion 18%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 3624-RLO. Nova Products, Inc., P.O. Box 5086—Packers Station, Kansas City, Kansas 66119. *Nova-Chlor-Mal.* Active Ingredients: Aromatic Petroleum Derivative Solvent 82%; Chlordane Technical 12%; Malathion 6%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 3624-RLT. Nova Products, Inc., P.O. Box 5086—Packers Station, Kansas City, Kansas 66119. *Nova CMH-49 Concentrate.* Active Ingredients: Aromatic Petroleum Derivative Solvent 45%; Chlordane Technical 37%; Malathion 18%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 3624-RAN. Nova Products, Inc., P.O. Box 5086—Packers Station, Kansas City, Kansas 66119. *Nova Century-Cide Filter Fly Concentrate.* Active Ingredients: Xylene 87.00%; Alpha isomer of 2-carbomethoxy-1-methylvinyl dimethyl phosphate 3.00%; Related Compounds 2.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 2841-7. Phoenix Oil Company, Chemical Department, 625 Fifth Street, Augusta, Georgia 30903. *Phoenix Conap Wood Preservative Copper Naphthenate Base No. 45 Concentrate.* Active Ingredients: Copper Naphthenate 45%; Petroleum Solvent 55%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 3509-RNA. Safe-Way Farm Products Co., 2519 East 5th Street, P.O. Box 6309, Austin, Texas 78702. *Safe-Way Brand Scarlet Red Screwworm Bomb.* Active Ingredients: Gamma Isomer of Benzene Hexochloride (from Lindane) 2.667%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 3509-RNL. Safe-Way Farm Products Co., 2519 East 5th Street, P.O. Box 6309, Austin, Texas 78702. *Safe-Way Brand Scarlet Red Ear Thick Bomb.* Active Ingredients: Gamma Isomer of Benzene Hexachloride (from Lindane) 2.667%. Method of Support. Application proceeds under 2(c) of interim policy.

EPA File Symbol 3509-OT. Safe-Way Farm Products Co., 2519 East 5th Street, P.O. Box 6309, Austin, Texas 78702. *Safe-Way Brand Paradichlorobenzene.* Active Ingredients: Paradichlorobenzene 100%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 3509-RNN. Safe-Way Farm Products Co., 2519 East 5th Street, P.O. Box 6309, Austin, Texas 78702. *Safe-Way Brand Tox O' Mal #45.* Active Ingredients: Toxaphene (Technical chlorinated camphene, chlorine content 67-69%); 45.00%; Malathion 7.50%; Aromatic petroleum distillates 40.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 8698-G. St. Aubrey/Div. of 8 in 1 Pet Products, Inc., 100 Emjay Blvd.,

Brentwood, New York 11717. *Perfect Coat Premium Pet Shampoo.* Active Ingredients: Pyrethrins 0.050%; Technical Piperonyl Butoxide 0.100%; N-Octyl Bicycloheptene Discarboximide 0.167%; Petroleum Distillates 0.243%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 557–RIOA. Swift Chemical Company, 111 W. Jackson Blvd., Chicago, Illinois 60604. *Swift Fungicide Spray Powder C 53.* Active Ingredients: Copper (in basic copper sulfate) expressed as metallic 53%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 557–RIOI. Swift Chemical Company, 111 W. Jackson Blvd.; Chicago, Illinois 60604. *Swift Micro-Grind Sulphur.* Active Ingredients: Sulphur, not less than 95%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 557–RIOO. Swift Chemical Company, 111 W. Jackson Blvd., Chicago, Illinois 60604. *Swift Nutritional Spray T–9 for Citrus.* Active Ingredients: Copper as Metallic 17.05%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 557–RIOT. Swift Chemical Company, 111 W. Jackson Blvd., Chicago, Illinois 60604. *Swift Oil-I-Cide Insecticide.* Active Ingredients: Petroleum Oils 80%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 557–RONE. Swift Chemical Company, 111 W. Jackson Blvd., Chicago, Illinois 60604. *Swift Liquid Copper Fungicide.* Active Ingredients: Copper as Metallic 8%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 557–RONN. Swift Chemical Illinois 60604. *Swift Nutritional Spray T–8 for Citrus.* Active Ingredients: Copper as Metallic 18.10%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 557–RONR. Swift Chemical Company, 111 W. Jackson Blvd., Chicago, Illinois 60604. *Vigoro Worm & Bug Killer.* Active Ingredients: O,O-Dimethyl 2,2,2-trichloro - 1 - hydroxyethyl phosphonate 17.0%; O,O-Dimethyl S-[2-ethylsulfinylethyl] phosphorothioate 5.6%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 327–RUG. Texas Phenothiazine Company, P.O. Box 4186, Fort Worth, Texas 76106. *TPC Fly-Con-90 Phenothiazine Additive for Liquid Feeds.* Active Ingredients: Phenothiazine 90.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7101–A. Walton-March, Inc., 1620 Old Deerfield Rd., P.O. Box 340, Highland Park, Illinois 60035. *Blue Spruce Germicidal Bowl Cleaner.* Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 4.32%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 4.32%; Sodium carbonate 38.00%; Sodium metasilicate 8.90%; Tetrasodium ethylenediamine tetraacetate 0.75%. Method of Support: Application proceeds under 2(a) of interim policy.

EPA File Symbol 9782–GG. Woodbury Chemical Company of Homestead, P.O. Box 4319, Princeton, Florida 33030. *Heptachlor 2.5E.* Active Ingredients: Heptachlor 27.8%; Related Compounds 10.8%; Petroleum Distillate 56.4%. Method of Support: Application proceeds under 2(b) of interim policy.

REPUBLISHED ITEM

The following item represents a correction and/or change in the list of Applications Received previously published in the Federal Register of April 15, 1974 (39 FR 13581).

EPA File Symbol 8047–GG. Poly Chem, Inc., P.O. Box 10026, New Orleans, Louisiana 70121. *Poly Pine Fragrance Germicidal Cleaner, Coefficient 13.* Correction: Originally published as EPA File Symbol 8047–GR.

Dated: April 19, 1974.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.74–9353 Filed 4–26–74;8:45 am]

FEDERAL MARITIME COMMISSION

CITY OF LOS ANGELES AND OVERSEAS SHIPPING CO.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 20, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Walter C. Foster, Deputy City Attorney
City of Los Angeles
P.O. Box 151
San Pedro, California 90733

Agreement No. T–2588–2, between the City of Los Angeles (City) and Overseas Shipping Company (Overseas), modifies the basic agreement which provides for the five-year nonexclusive preferential assignment to Overseas of Berths 228D, 228E, 229, and 230 plus 24 acres of adjacent land area for operation as a marine terminal. The purpose of the modification is to increase the area covered by the agreement and to establish a maximum compensation of $574,000 annually, for the third, fourth, and fifth years of the lease term.

Dated: April 24, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74–9743 Filed 4–26–74;8:45 am]

LYKES BROS. STEAMSHIP CO., INC. AND AMERICAN EXPORT LINES

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, NY., New Orleans, La., San Juan, Puerto Rico and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 9, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Hans G. Blocklin, Vice President
Central Atlantic Division
Lykes Bros. Steamship Co., Inc.
1100 Connecticut Avenue, NW.
Washington, D.C. 20036

Agreement No. 10125 between the above-named carriers provides (1) that the parties will undertake the exchange of information and cooperation in developing information relating to freight rates, handling charges, warehousing and storage charges and other related data bearing on the rate structure of common carrier steamship services required by shippers; and (2) that each of the parties will furnish equivalent tonnage as regards type and capacity and will maintain alternate sailings in the trade between U.S. Gulf/South Atlantic/North Atlantic and Russia.

Dated: April 24, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74–9742 Filed 4–26–74;8:45 am]

SCANDINAVIA BALTIC/U.S. NORTH ATLANTIC, AND WESTBOUND FREIGHT CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126, or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Juan, Puerto Rico and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 9, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Howard A. Levy, Esq.
Suite 631
17 Battery Place
New York, New York 10004

Agreement No. 9982–3, among the members of the Scandinavia Baltic/U.S. North Atlantic Westbound Freight Conference, is an application for unlimited and unconditional approval of the Conference's inland authority in Europe.

Dated: April 24, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74–9744 Filed 4–26–74;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. E–8724]

AMERICAN ELECTRIC POWER SERVICE CORP.

Changes in Rates and Charges

APRIL 19, 1974.

Take notice that American Electric Power Service Corporation (AEP) on April 3, 1974, tendered for filing on behalf of Indiana Michigan Electric Company (Indiana) Modification No. 6 to the Interconnection Agreement, dated November 27, 1961, between Indiana and Illinois Power Company (Illinois), designated as Indiana's Rate Schedule FPC No. 23.

AEP states that section 1 of said Modification No. 6 provides for a new Service Schedule E in which there is an increase in the Demand Charge for Short Term Power from $0.40 to $0.45 per killowatt per week and the addition of a Limited Term Power Service Schedule. AEP requests an effective date of March 18, 1974, for both said Schedules.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 6, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–9707 Filed 4–26–74;8:45 am]

[Docket No. CI74–434]

C & K OFFSHORE CO. ET AL.

Order Granting Interventions and Setting Date for Hearing

APRIL 22, 1974.

On February 14, 1974, C & K Offshore Company (Operator) et al. (C & K) filed an application pursuant to sections 4 and 7 of the Natural Gas Act,[1] and § 2.75[2] of the Commission's general policy statements, the optional procedure for certificating new producer sales of natural gas set forth in Order No. 455,[3] (hereinafter § 2.75) for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce to Transcontinental Gas Pipeline Company (Transco) from new wells on previously dedicated acreage, offshore Louisiana.

These sales will emanate from West Cameron Block 40, which was originally leased from the United States by Phillips Petroleum Company. Authorization for sales by Phillips was granted by the Commission in Docket No. G–14244. Deliveries commenced to Transco pursuant to a December 23, 1957 contract, which was cancelled on March 16, 1973. Tenneco Oil Company, as successor in interest, was authorized to continue the sale in Docket No. G–18980 with a contract rate of 28 cents escalating to 30 cents on July 1, 1974, but the current effective rate is 21.375 cents per Mcf. Subsequently, Chevron Oil Company has acquired a certain unstated interest in the property from Tenneco. This interest, or part of it, has been assigned to C & K as operator for itself and Bethlehem Steel Corporation, ConDel Oil Corporation, Dearborn–Storm Corp., St. Joe Minerals Corporation, Polaris Oil Company, Mr. Robert A. Shepard, Jr., Four M Properties Company, and Transcontinental Production Company, which is a subsidiary of Transco. Polaris, Shepard, and Four M received their respective interests by assignment from Ambassador Petroleum Company.

The contract amendment which is the subject of this application was signed on November 8, 1973, between C & K and Transco. The contract term is 32 years from the date of initial delivery from the post April 6, 1972, wells and provides for an initial rate of 45 cents per Mcf, 1 cent per year Mcf escalation, reimbursement of 75 percent of any new or additional taxes, and downward Btu adjustment from 1000. An FPC area rate clause contained in the contract would not operate upon certification. Applicants also agree that if they are successful in obtaining an interest in any or all of the blocks adjoining West Cameron Block 40, namely blocks 24, 25, 26, 39, 41, 60, 61, and 62, such interest would be dedicated to the contract amendment.

Transco has reported a total of 8 Bcf of production from West Cameron Block 40 through 1967, but no purchases have been reported since then.

The Public Service Commission of the State of New York (NYPSC) has filed a notice of intervention and a request for hearing. The American Public Gas Association (APGA) has filed a petition to intervene.

We find a hearing is necessary to determine whether the present and future public convenience and necessity will be served by certificating these sales and whether the proposed rate is just and reasonable, taking into consideration all factors bearing on maintenance of an adequate and reliable supply of gas, delivered at the lowest reasonable cost.[4]

It is not clear from the application exactly which parties hold what interest in West Cameron Block 40. At present Tenneco has a certificate as successor to Phillips but no sales appear to be made at the present time. Besides the C & K group and Tenneco, Chevron may hold some royalty interest in this block. Therefore, we shall require at the hearing that C & K present evidence as to the number of interest owners in West Cameron Block 40 and the percentage owner-

[1] 15 U.S.C. 717, et seq. (1970).
[2] 18 CFR 2.75.
[3] Statement Of Policy Relating To Optional Procedure For Certificating New Producer Sales Of Natural Gas, Docket No. R–441, 48 F.P.C. 218 (issued August 3, 1972), appeal pending sub. nom. John E. Moss, et al. v. F.P.C., No. 72–1837 (D.C. Cir.)

[4] Opinion And Order Issuing Certificate Of Public Convenience And Necessity And Determining Just And Reasonable Rates, Opinion No. 659, Belco Petroleum Corporation, Agent, et al., Docket Nos. CI73–293 et al., 49 F.P.C. ____ (issued May 30, 1973), slip op. at para. 21, p. 5.

ship of each. C & K is also directed to demonstrate that its application will not impinge, diminish, or impair Tenneco's obligations under its contract with Transco in Tenneco Corporation, FPC Gas Rate Schedule No. 49.

This hearing is not the proper forum for the relitigation of the propriety of the § 2.75 procedures; that matter is now before the Court of Appeals, see n. 3. supra. This hearing will be addressed solely to issues of public convenience and necessity, and the justness and reasonableness of the particular sale and rates herein proposed.

Those parties and intervenors desiring to submit cost and non-cost data should structure their evidence to reflect the tests under § 2.75 for determining the justness and reasonableness of the rate sought.

No intervenor has questioned Transco's need for the additional natural gas supplies that will be available to it as a result of these purchases.

The Commission finds.

(1) It is necessary and in the public interest that the above-docketed proceedings be set for formal hearing.

(2) It is desirable and in the public interest to allow the above-named petitioners to intervene in this proceeding.

The Commission orders.

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 7, 14 and 16 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), Docket No. CI74–434 is set for the purpose of hearing and disposition.

(B) A public hearing on the issues presented by the application herein shall be held commencing on May 29, 1974, 10 a.m., e.d.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

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

(D) C & K and any intervenor supporting the application shall file their direct testimony and evidence on or before May 3, 1974. All testimony and evidence shall be served upon the presiding judge, the Commission staff, and all parties to this proceeding.

(E) The Commission staff, and any intervenor opposing the application, shall file their direct testimony and evidence on or before May 15, 1974. All testimony and evidence shall be served upon the presiding judge, and all other parties to this proceeding.

(F) All rebuttal testimony and evidence shall be served on or before May 24, 1974. All parties submitting rebuttal testimony and evidence shall serve such testimony upon the presiding judge, the Commission Staff, and all other parties to the proceeding.

(G) The above named petitioners are permitted to intervene in this proceeding subject to the rules and regulations of this Commission: *Provided, however,* That the participation of such intervenor shall be limited to matters affecting asserted rights and interest as specifically set forth in said petition for leave to intervene: *And provided, further,* That the admission of such interest shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(H) The contract dated December 23, 1957, between Phillips and Transco and the November 8, 1973, agreement between C & K and Transco are accepted for filing as of the date of initial delivery and designated as C & K Offshore Company (Operator), et al., F.P.C. Gas Rate Schedule No. 1, Supplement No. 1.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74–9710 Filed 4–26–74;8:45 am]

[Docket No. RP72–89]

COLUMBIA GAS TRANSMISSION CORP.

Extension of Time for Filing Comments

APRIL 19, 1974.

On April 17, 1974, Washington Gas Light Company filed a motion requesting an extension of time to respond to the motion for an extension of the Interim Curtailment Plan of Columbia Gas Transmission Corporation. The motion states that Commonwealth Natural Gas Corporation and the City of Charlottesville, Virginia, support the motion.

Upon consideration, notice is hereby given that the time is extended to and including April 29, 1974, within which to respond to the above motion.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–9705 Filed 4–26–74;8:45 am]

[Docket No. E–8728]

DUKE POWER CO.

Notice of Supplement to Rate Schedule

APRIL 19, 1974.

Take notice that on April 8, 1974, Duke Power Company (Duke) tendered for filing Supplement to its Electric Power Contract with the City of Statesville, North Carolina, designated as Duke's Rate Schedule FPC No. 240. Duke states that the Supplement provides for an increase from 25,000 KW to 30,000 KW at Delivery Point No. 1 and an increase from 25,000 KW to 30,000 KW at Delivery Point No. 2.

Duke proposes an effective date of May 21, 1974, for said Supplement.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 6, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–9709 Filed 4–26–74;8:45 am]

[Docket No. RP71–16, etc.]

MIDWESTERN GAS TRANSMISSION CO.

Notice Postponing Prehearing Conference

APRIL 19, 1974.

On April 19, 1974, Staff Counsel filed a motion to omit the prehearing conference scheduled for April 23, 1974, by notice issued January 22, 1974, in the above-designated matter. The motion states that Midwestern Gas Transmission Company agrees to the request with the understanding that following the Midwestern's and Staff's submission of direct cases, the Presiding Administrative Law Judge will permit a brief recess for informal discussion of any possible stipulation and agreement in settlement of the issues.

Upon consideration, notice is hereby given that the prehearing conference is postponed to July 9, 1974, at 10 a.m. e.d.t. The hearing will commence upon the conclusion of the prehearing conference, after which time the Administrative Law Judge may permit a recess for settlement purposes.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–9704 Filed 4–26–74;8:45 am]

[Docket No. CI73–736]

PHILLIPS PETROLEUM CO.

Extension of Time and Postponement of Hearing

APRIL 22, 1974.

On April 16, 1974, Phillips Petroleum Company requested an extension of the procedural dates fixed by order issued April 12, 1974, in the above-designated matter. On April 18, 1974, Panhandle Eastern Pipeline Company joined in Phillips' request for an extension of the procedural dates. On April 22, 1974, Phillips advised that McCulloch Interstate Gas Corporation has no objection to the extension.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Prepared Testimony and Exhibits, May 13, 1974.
Hearing, May 21, 1974 (10 a.m., e.d.t.)

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–9708 Filed 4–26–74;8:45 am]

[Docket No. RP74-20]

UNITED GAS PIPE LINE CO.

Filing of Revised Tariff Sheet

APRIL 19, 1974.

Take notice that on April 5, 1974, United Gas Pipe Line Company (United) tendered for filing with the Commission Sixteenth Revised Tariff Sheet No. 4. This revised tariff sheet is being filed as a replacement for Fifteenth Revised Sheet No. 4, filed with the Commission September 21, 1973, as well as Substitute Fifteenth Revised Sheet No. 4, filed with the Commission on February 15, 1974, and which was the subject of the Commission order issued in Docket Nos. RP72-75 et al., March 29, 1974. This revised tariff sheet reflects modifications thereto which include (1) reclassification and reallocation of fixed transmission costs in accordance with Commission Opinion Nos. 671 and 671-A, (2) inclusion of current gas cost, and (3) substitution of effective surcharge. United requests that the revised sheet be given an effective date of April 6, 1974.

United states that a copy of Sixteenth Revised Tariff Sheet No. 4 is being mailed to United's jurisdictional customers, interested state commissions, and parties to this proceeding.

Protests or petitions to intervene are due to be filed with the Federal Power Commission on or before May 1, 1974. Parties previously permitted to intervene in this docket need not refile petitions. Parties having previously commented upon the February 15 filing need not file additional comments if such comments to this filing would be substantially similar.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-9706 Filed 4-26-74;8:45 am]

[Docket No. RP71-14, etc.]

EL PASO NATURAL GAS CO.

Order Approving Settlement

APRIL 15, 1974.

On July 25, 1973, the Presiding Administrative Law Judge certified to the Commission a proposed Stipulation and Agreement (Agreement) which purports to settle all issues in these proceedings, relating to El Paso Natural Gas Company's (El Paso) Northwest Division System, with the exception of the reserved issues of conjunctive billing and the proper allocation of the Sumas IV increment of 75,000 Mcf per day. Hearings on the two reserved issues were held on October 23, 1973. The record certified for settlement purposes includes testimony and exhibits filed by El Paso and the Commission Staff.

Public Notice of certification of the Agreement was issued on August 9, 1973, with comments due on or before August 23, 1973. No comments objecting to the Agreement have been filed.

Those three dockets involving major rate increase proceedings, Docket Nos. RP71-14, RP71-137 and RP72-151, have now become "locked in" by subsequent filings. We shall describe briefly the proceedings in the dockets proposed to be settled and the effect the Agreement has upon them.

Docket No. RP71-14. This docket involves a general rate increase of approximately $12.4 million for El Paso's Northwest Division System. The increased rates were suspended until March 31, 1971, at which time they were placed in effect subject to refund, and continued in effect through October 31, 1971 when they became locked in by the rate schedules which took effect in Docket No. RP71-137. In addition, during a portion of such locked-in period, a tracking adjustment was made and collected for increased purchased gas costs.

The Settlement Cost of Service of $129,902,731 shown in Appendix A reflects adjustments purportedly made in accordance with the principles enunciated in Opinion No. 635; the elimination of a filed wage increase adjustment of $94,497; elimination of amortization of the deficiency in Account No. 282 of $346,000; and adjustments covering a reduction totaling $4,602,956 for return and income taxes attributable to a decrease in the overall rate of return from 8.875 percent to 8.146 percent (13.68 percent on common equity).

Docket No. RP71-84. This proceeding relates to the filing of a proposed Rate Schedule ODL-1 under which conjunctive billing would become available to the distributor customers on an optional basis commencing with receipt of additional Canadian supplies on or about November 1, 1971. By letter order issued April 2, 1972, we accepted Rate Schedule ODL-1 effective March 29, 1971, subject to further Commission orders. Thereafter, El Paso filed First Revised Volume No. 3 superseding Original Volume No. 3 under Docket No. RP71-137. The revised tariff provided for conjunctive billing under a new, and somewhat revised, Rate Schedule ODL-1. Inasmuch as no service was rendered under Rate Schedule ODL-1 as filed in Docket No. RP71-84, such docket is now moot and, pursuant to the terms of the Agreement is deemed terminated.

Docket No. RP71-137. This proceeding involves a general rate increase of approximately $15.8 million for El Paso's Northwest Division and reflects an increase in the cost of Canadian gas and proposed 9 percent rate of return.

The Settlement Cost of Service of $178,805,025 shown in Appendix B, reflects adjustments purportedly made in conformance with the principles enunciated in Opinion Nos. 600-A and 635; the elimination of amortization of the deficiency in Account No. 282 of $349,000; a decrease of $24,244 in the amount of Storage Revenues deducted from cost of service; and adjustments covering a reduction totaling $4,576,484 for return and income taxes which is almost entirely attributable to a decrease in the overall rate of return from 9 percent to 8.301 percent.

Docket No. RP72-151. This proceeding involves a general rate increase of approximately $8.8 million for El Paso's Northwest Division. The increased rates were placed into effect on January 1, 1973, and were collected through November 24, 1973, when they became locked in by those rates proposed in Docket No. RP73-109.

The Settlement Cost of Service of $194,759,245 shown in Appendix C, reflects adjustments purportedly made in accordance with the principles enunciated in Opinion Nos. 600, 600-A and 635; a reduction in gas sales volumes based upon a more current deliverability study; an adjustment to reflect actual plant, depreciation reserves, and deferred income tax reserves of November 30, 1972; and an adjustment to reflect a slightly higher overall return to provide an allowance of 13.68 percent on common equity.

Discussion. The settlement cost of service, rates and capitalizations applicable to the various dockets are shown in attached Appendices A through C. The settlement reflects the use of the normalized method of tax accounting. The parties have agreed to reserve for trial the issues of conjunctive billing and allocation of Sumas IV increment. These issues have already been the subject of hearings.

The Agreement proposes treatment of any payments of annual charges which may be made to the Federal Power Commission for certain periods. This provision, however, has been rendered moot by the March 4, 1974, decision of the Supreme Court in "Federal Power Commission v. New England Power Company".[1]

Our review of the proposed Agreement, the cost of service and capitalization filed in support of the Agreement, and the record as certified on July 25, 1973, indicates that the resolution of the issues effected by the Agreement is in the public interest and the rates proposed therein are not excessive. We shall therefore accept the Agreement.

The parties propose, and we shall so order, that substitute tariff sheets for each of the referenced dockets reflecting settlement rate levels shall be filed within 45 days of the date upon which the Commission order approving the Agreement becomes final, and those dollars so calculated in excess of the settlement rates adjusted to reflect authorized purchased gas cost tracking increases for each of the locked-in periods shall be refunded within 30 days of Commission approval of the substitute tariff sheets.

The Commission finds. Approval, as hereinafter ordered, of the Settlement in these proceedings on the basis of the Agreement certified on July 25, 1973, is just and reasonable and in the public interest in carrying out the provisions of the Natural Gas Act.

The Commission orders. (A) El Paso's motion for approval of the proposed Agreement is granted, the proposed Set-

[1] Docket No. 72-1162.

tlement Agreement is incorporated by reference herein and accepted and those tariff sheets filed pursuant to and in conformance with the terms of the Agreement shall become effective pursuant to its terms.

(B) El Paso shall comply with all terms and conditions of the Agreement.

(C) El Paso shall file within 45 days following the date upon which this order becomes final, substitute tariff sheets for each of the referenced dockets reflecting settlement rate levels, and refunds due its jurisdictional customers as per the terms and conditions of the Agreement approved herein shall be refunded within 30 days of Commission approval of the substitute tariff sheets.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

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

APPENDIX A

EL PASO NATURAL GAS CO.

[Docket No. RP71-14]

Staff, filed, and settlement cost of service

[Rates in effect from Mar. 31, 1971, through Oct. 31, 1971]

Line No.	Description	Staff case exhibit No. 19	El Paso filing exhibit 1B	Settlement	
				As proposed and motioned	Increase or (decreased) versus exhibit 1B
	(a)	(b)	(c)	(d)	(e)
	OPERATION AND MAINTENANCE EXPENSE				
1	Production and storage	$86,769,473	$86,452,972	86,371,998	($80,974)
2	Transmission	8,272,669	8,411,858	8,272,669	(139,189)
3	Customer accounts	77,699	78,988	77,699	(1,289)
4	Sales expense	269	278	269	(9)
5	Administrative and general	4,493,093	4,707,437	4,637,553	(69,884)
6	Total operation and maintenance	99,613,203	99,651,533	99,360,188	(291,345)
7	Donations	7,956	7,868	7,868	
8	Depreciation and amortization	11,207,661	10,949,769	10,949,769	
9	Depletion	82,852	82,852	82,852	
10	Taxes, other than income	3,874,946	3,861,241	3,857,278	(3,963)
11	State income taxes	295,038	397,987	273,810	(124,177)
12	Federal income tax	5,268,803	8,299,416	4,709,856	(2,589,560)
13	Return (staff—8.11 percent; filed—8.875 percent; Settlement—8.146 percent)	18,239,659	20,059,955	18,170,736	(1,889,219)
14	Amortization of deficiency in A/C 282		346,000		(346,000)
15	Subtotal	138,590,118	143,656,621	138,412,357	(5,244,264)
	REVENUES DEDUCTED				
16	Other operating revenue	(6,630,500)	(6,350,209)	(6,350,209)	
17	Storage revenues		(2,227,037)	(2,159,417)	67,620
18	Total revenues deducted	(6,630,500)	(8,577,246)	(8,509,626)	67,620
19	Total cost of service	131,959,609	135,079,375	429,902,731	(5,176,644)
20	Jurisdictional portion			127,757,065	

EL PASO NATURAL GAS CO. (NORTHWEST DIVISION)

[Docket No. RP71-14]

Jurisdictional revenues at filed and settlement rates

Line No.	Rate schedule	Test period volumes	Filed		Settlement	
			Rates	Revenues	Rates	Revenues
	(a)	(b)	(c)	(d)	(e)	(f)
	DI-1:		*Cents*		*Cents*	
1	1st block—therm	449,462,962	5.12	$23,012,504	4.958	$22,284,374
2	2d block—therm	309,030,485	2.46	7,602,150	2.299	7,104,611
3	Total			30,614,654		29,388,985
	DL-1:					
4	Demand—therm	60,300,000	31.92	19,247,760	31.92	19,247,760
5	Commodity—therm	1,577,832,045	2.46	38,814,668	2.299	36,274,359
6	Total			58,062,428		55,522,119
7	DS-1—therm	19,025,076	4.73	899,886	4.569	869,256
8	S-1—therm	9,179,797	3.79	347,914	3.629	333,135
9	I-1—therm	420,307,083	3.09	12,987,489	2.929	12,310,794
10	IOS-1—therm	90,812,218	3.73	3,387,296	3.569	3,241,088
	PL-1:					
11	Demand—thousand cubic feet	2,115,000	282.00	5,964,300	282.00	5,964,300
12	Commodity—thousand cubic feet	51,496,529	23.29	11,993,542	21.59	11,118,101
13	Total			17,957,842		17,082,401
14	PL-4—therm	188,809,669	3.83	7,231,410	3.669	6,927,427
15	PL-5—therm	71,076,151	3.09	2,196,253	2.929	2,081,820
16	Subtotal			133,685,172		127,757,025

EL PASO NATURAL GAS CO. (NORTHWEST DIVISION)

[Docket No. RP71-14]

Rate of return

Line No.	Description (a)	Percent (b)	Cost or allowance (percent) (c)	Return (percent) (d)
1	Debt	72.87	6.59	4.802
2	Preferred	5.43	6.90	.375
3	Common [1]	21.70	13.68	2.969
4	Total	100.00		8.146

[1] Reflects elimination of $83,033,286 as per Commission opinion No. 582.

APPENDIX B

EL PASO NATURAL GAS CO. (NORTHWEST DIVISION)

[Docket No. RP71-137]

Staff, filed, and settlement cost of service

[Rates in effect from Nov. 1, 1971, through Dec. 31, 1972]

Line No.	Description	Staff case exhibit No. 17	El Paso filing as adjusted	Settlement	
				As proposed and motioned	Increase or (decreased) versus filed
	(a)	(b)	(c)	(d)	(e)
	OPERATION AND MAINTENANCE EXPENSE				
1	Production and storage	$124,652,674	$124,433,291	$124,328,461	($104,830)
2	Transmission	9,799,608	9,931,612	9,816,982	(114,630)
3	Customers accounts	89,053	89,423	89,053	(370)
4	Sales expense	223,225	223,230	223,225	(5)
5	Administrative and general	5,141,659	5,075,911	5,000,445	(75,466)
6	Total operation and maintenance	139,906,219	139,753,467	139,458,166	(295,301)
7	Donations	7,471	7,396	7,396	
8	Depreciation and amortization	12,906,651	12,920,822	12,902,432	(18,390)
9	Depletion	96,888	96,903	96,903	
10	Taxes, other than income	4,192,708	4,219,336	4,217,051	(2,285)
11	State income taxes	291,825	493,092	367,396	(125,696)
12	Federal income tax	5,676,286	10,339,643	7,271,683	(3,067,960)
13	Return (staff—8.125 percent; Filed—9 percent; Settlement—8.301 percent)	21,654,443	25,095,070	23,712,242	(1,382,828)
14	Amortization of deficiency in A/C 282		349,000		(349,000)
15	Subtotal	184,732,491	193,274,729	188,033,269	(5,241,460)
	REVENUES DEDUCTED				
16	Other operating revenue	(7,000,050)	(6,870,148)	(6,914,591)	(44,443)
17	Storage revenues		(2,337,897)	(2,313,654)	24,244
18	Total revenues deducted	(7,000,050)	(9,208,045)	(9,228,244)	(20,199)
19	Total cost of service	177,732,441	184,066,684	178,805,025	(5,261,659)
20	Jurisdictional portion			176,929,188	

EL PASO NATURAL GAS CO. (NORTHWEST DIVISION)

[Docket No. RP71-137]

Jurisdictional revenues at filed and settlement rates

[Rates in effect from December 1, 1972 through December 31, 1972]

Line No.	Rate schedule	Test period volumes	Filed		Settlement	
			Rates	Revenues	Rates	Revenues
	(a)	(b)	(c)	(d)	(e)	(f)
			Cents		*Cents*	
	ODL-1:					
1	Demand—therm	124,503,732	36.00	$44,821,344	32.67	$40,675,369
2	Commodity—therm	3,155,000,181	2.65	83,607,505	2.718	85,752,905
3	Total			128,428,849		126,428,274
4	DS-1—therm	40,397,192	4.653	1,879,681	4.714	1,904,324
5	IOS-1—therm	217,954,711	3.834	8,356,384	3.792	8,264,843
6	I-1—therm	30,133,171	3.834	1,155,306	3.792	1,142,650
	PL-1:					
7	Demand—thousand cubic feet	2,508,672	330.00	8,278,618	244.44	6,132,198
8	Commodity—thousand cubic feet	72,565,000	25.80	18,721,770	28.40	20,608,460
9	Total			27,000,388		26,740,658
10	PL-4—therm	238,505,900	4.083	9,738,196	3.997	9,533,081
11	PL-5—therm	76,881,802	3.834	2,947,648	3.792	2,915,358
12	Subtotal			179,506,452		176,929,188

EL PASO NATURAL GAS CO. (NORTHWEST DIVISION)

[Docket No. RP71-137]

Rate of Return

Line No.	Description	Percent	Cost or allowance (percent)	Return (percent)
	(a)	(b)	(c)	(d)
1	Debt	72.55	6.76	4.904
2	Preferred	5.29	6.91	.366
3	Common [1]	22.16	13.68	3.031
4	Total	100.00		8.301

[1] Reflects elimination of $83,033,286 as per Commission opinion No. 582.

APPENDIX C

EL PASO NATURAL GAS CO. (NORTHWEST DIVISION)

[Docket No. RP72-151]

Cost of service comparison reflecting increase or decrease differences between settlement basis and staff case

[Rates in effect beginning Jan. 1, 1973]

Line No.	Description	El Paso filed case exhibit 15	Staff case exhibits 18 and 19	Settlement basis	
				As proposed July 19, 1973	Increase or (decreased) versus staff
	(a)	(b)	(c)	(d)	(e)
	OPERATION AND MAINTENANCE EXPENSES				
1	Production and gathering	$6,681,059	$6,685,786	$7,764,499	$1,078,713
2	Products extraction	3,901,233	3,901,560	4,098,838	197,278
3	Exploration and development	44,769	44,778	54,311	9,533
4	Natural gas purchases	130,911,960	130,913,302	129,284,658	(1,628,644)
5	Gas used in company operations	(3,582,316)	(5,042,098)	(3,760,865)	1,281,233
6	Underground storage gas—net	(269,436)	(1,190,172)	(176,278)	(1,366,450)
7	Total cost of gas sold	127,060,208	127,061,376	125,347,515	(1,713,861)
8	Purchased gas expenses	205,223	205,233	214,990	9,757
9	Other gas supply expenses	(1)	(1)	(1)	
10	Total production and gathering	137,892,491	137,898,732	137,480,152	(418,580)
11	Underground storage expenses	212,829	212,829	212,829	
12	Transmission expenses	10,147,920	10,147,920	10,509,868	361,948
13	Customers accounts expenses	90,533	90,533	90,533	
14	Sales expenses	234,247	234,247	234,247	
15	Administrative and general expenses	5,595,196	5,576,170	5,806,825	230,655
16	Total operation and maintenance expenses	154,173,216	154,160,431	154,334,454	174,023
17	Donations	10,132	10,132	10,221	89
18	Depreciation and amortization	13,428,442	13,410,057	13,989,894	570,837
19	Depletion	94,257	87,287	108,173	20,886
20	Taxes, other than income	4,693,312	4,688,404	4,815,794	127,390
21	State income taxes	38,936	202,079	229,208	27,019
22	Federal income tax	11,389,192	5,553,445	6,743,148	1,189,703
23	Return (exhibit 15—9.00 percent; staff—8.375 percent; settlement—8.47 percent)	25,544,564	22,988,185	24,670,014	1,681,829
24	Amortization of deficiency in A/C 282	343,574			
25	Subtotal	210,059,625	201,100,020	204,891,796	3,791,776
	REVENUES DEDUCTED				
26	Other operating revenues	(6,680,277)	(6,680,912)	(6,738,408)	(57,496)
27	Storage revenues	(2,882,152)	(2,882,152)	(3,394,343)	(512,191)
28	Total revenues deducted	(9,562,429)	(9,562,064)	(10,132,751)	(569,687)
29	Total cost of service	200,497,196	191,536,956	194,759,245	3,222,089
30	Jurisdictional portion			192,408,178	

EL PASO NATURAL GAS CO. (NORTHWEST DIVISION)

[Docket No. RP72-151]

Jurisdictional revenues based on filed and settlement rates

Line No.	Rate schedule	Test period volumes	Filed Rates	Filed Revenues	Settlement Rates	Settlement Revenues
	(a)	(b)	(c)	(d)	(e)	(f)
	ODL-1:		*Cents*		*Cents*	
1	Demand—therm	130,718,280	35.93	$46,967,078	35.60	$46,535,708
2	Commodity—therm	3,300,798,864	2.838	93,676,675	2.773	91,531,155
3	Total			140,643,753		138,066,863
4	IOS-1—therm	228,572,946	4.019	9,186,347	3.941	9,008,060
5	DS-1—therm	30,309,006	4.895	1,483,626	4.817	1,459,985
6	I-1—therm	8,973,624	4.019	360,650	3.941	353,651
7	PL-4—therm	252,546,613	4.265	10,771,113	4.187	10,574,127
8	PL-5—therm	74,614,108	4.019	2,998,741	3.941	2,940,542
	PL-1:					
9	Demand—thousand cubic feet	2,712,180	280.00	7,594,104	276.00	7,485,617
10	Commodity—thousand cubic feet	78,246,465	29.46	23,051,409	28.78	22,519,333
11	Total			30,645,513		30,004,950
12	Subtotal			196,089,743		192,408,178

EL PASO NATURAL GAS CO. (NORTHWEST DIVISION)

[Docket No. RP72-151]

Rate of return

Line No.	Description	Percent	Cost or allowance (percent)	Return (percent)
	(a)	(b)	(c)	(d)
1	Debt	69.72	6.83	4.762
2	Preferred	6.68	7.19	.480
3	Common [1]	23.60	13.68	3.228
4	Total	100.00		8.470

[1] Reflects elimination of $83,033,286 as per Commission opinion No. 582.

[FR Doc.74-9437 Filed 4-26-74;8:45 am]

GENERAL SERVICES ADMINISTRATION

PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES FOR THE OFFICE OF OPERATING PROGRAMS

Notice of Meeting

APRIL 19, 1974.

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Public Advisory Panel on Architectural and Engineering Services for the Office of Operating Programs, May 2, 1974, from 10:00 a.m. to 4:00 p.m., Room 5334, General Services Administration Building, 18th and F Streets, NW, Washington, DC. This meeting will be for the purpose of reviewing the concepts for the proposed Social Security Administration, Woodlawn, Maryland and Social Security Administration, Metro West Office Building, Baltimore, Maryland.

The meeting will be closed to the public in accordance with the provisions set forth in section 10(d) of Pub. L. 92-463.

CLAUDE G. BERNIER,
Acting Chief, Design Branch.

[FR Doc.74-9686 Filed 4-26-74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on April 24, 1974 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529).

NEW FORMS

DEPARTMENT OF AGRICULTURE

Economic Research Service, Survey of Consumers' Consumption of and Attitudes Toward Wine, Form ____, Single time, Wann, Individuals.

Statistical Reporting Service, Cattle and Calf Marketing Survey (Mississippi), Form ____, Single time, Lowry, Cattle farmers.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Instructions for Preparing Final Financial Reports—Indian Education Act Grants—Parts A, B, and C, Form OE 354, Annual, Lowry, Local educational agencies, Indian organizations.

Instructions for Preparing Final Performance Reports—Indian Education Act Grants, Parts A, B, and C, Form OE 354-1, Annual, Lowry, Local educational agencies, Indian organizations.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, Home Health Agency (Automated) Survey Report Form; Documentation Form; and Mark-Sense (Answers) Input Sheets, Form SSA-1572-Test, SSA-1572A-Test, SSA-1572B-Test, Annual, Caywood, Home Health Agencies (Medicare).

REVISIONS AND EXTENSIONS

None

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74-9784 Filed 4-26-74;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL COUNCIL ON THE ARTS

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the National Council on the Arts will be held at 9:00 a.m. on May 3, 9:00 a.m. on May 4, and 9:00 a.m. on May 5, 1974 in the St. Anthony Hotel, San Antonio, Texas.

A portion of this meeting will be open to the public on May 4 from 9:00 a.m. to 12:30 p.m. on a space available basis. Accommodations are limited. During the open session, the following areas will be discussed: (1) Guidelines (2) Energy (3) Special Projects (4) Fed-State (5) Architecture + Environmental Arts.

The remaining sessions of this meeting, May 3, May 4 from 9:00 a.m. to 4:30 p.m., and May 5, 1974 are for the purpose of Council review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the

FEDERAL REGISTER of January 10, 1973, these sessions involving matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b) (4) and (6), will not be open to the public.

Further information with reference to this meeting can be obtained from Mrs. Luna Diamond, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 382-5871.

EDWARD M. WOLFE,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.74-9681 Filed 4-26-74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[811-2355]

HOME INCOME SHARES, INC.

Notice of Filing of Application Declaring That Company Has Ceased To Be an Investment Company

Notice is hereby given that Home Income Shares, Inc. ("Applicant"), c/o David Fain Brown, 9100 Wilshire Boulevard, Beverly Hills, California 90212, registered as a closed-end, diversified management investment company under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein, which are summarized below.

Applicant was organized as a Maryland corporation on February 5, 1973. It filed its Notification of Registration on Form N-8A under the Act and a Registration Statement under the Securities Act of 1933 ("1933 Act"), on February 7, 1973. Applicants 1933 Act Registration Statement never became effective, and on February 28, 1974, the Commission consented to its withdrawal.

Applicants represents that due to unfavorable market conditions it never commenced operations as an investment company and that none of its shares have ever been issued. Applicant further represents that it is now in the process of being dissolved.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than May 17, 1974, 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 issues, if any, of fact of law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following May 17, 1974, 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.74-9745 Filed 4-26-74;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 06/10-0150]

CAPITAL MARKETING CORP.

Notice of Filing of Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Capital Marketing Corporation (Capital), 9001 Ambassador Row, Dallas, Texas 75247, a Federal licensee under the Small Business Investment Act of 1958, as amended (Act), License No. 06/10-0150, has filed an application, pursuant to § 107.1004 of the regulations governing small business investment companies (38 FR 30836, November 7, 1973), for approval of a conflict of interest transaction.

It is represented in the application that:

1. Capital's investment in a grocery store located at 2919 Cedar Crest Boulevard, Dallas, Texas was in jeopardy.

2. In order to avoid a substantial loss, Mr. Carlo Angelo, secretary-director of Capital, purchased this grocery store by means of assuming the obligations of its former owners.

Pursuant to the provisions of § 107.3(a) of the regulations, Mr. Angelo is considered to be an associate of Capital. As such, this transaction will require an exemption pursuant to § 107.1004(b)(1) of the Regulations.

Notice is hereby given that any interested person may, no later than 15 days from the publication of this notice, submit to the Small Business Administration (SBA), in writing, relevant comments on this transaction. Any such communication should be addressed to the Associate Administrator for Finance and Investment, 1441 L Street NW., Washington, D.C.

A copy of this notice shall be published in a newspaper of general circulation in Dallas, Texas.

Dated: April 18, 1974.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.74-9717 Filed 4-26-74;8:45 am]

DEPARTMENT OF LABOR

Office of the Secretary

CLIPPARD INSTRUMENT, INC., PARIS, TENNESSEE

Investigation Regarding Certification of Eligibility of Workers To Apply for Adjustment Assistance

The Department of Labor has received a Tariff Commission report containing an affirmative finding under section 301(c)(2) of the Trade Expansion Act of 1962 with respect to its investigation of a petition for determination of eligibility to apply for adjustment assistance filed on behalf of the former workers of Clippard Instrument, Inc., Paris, Tennessee (TEA-W-227). In view of the report and the responsibilities delegated to the Secretary of Labor under section 8 of Executive Order 11075 (28 FR 473). the Acting Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, has instituted an investigation, as provided in 29 CFR 90.5 and this notice. The investigation relates to the determination of whether any of the group of workers covered by the Tariff Commission report should be certified as eligible to apply for adjustment assistance, provided for under Title III, Chapter 3, of the Trade Expansion Act of 1962, including the determination of related subsidiary subjects and matters, such as the date unemployment or underemployment began and the subdivision of the firm involved to be specified in any certification to be made, as more specifically provided in Subpart B of 29 CFR Part 90.

Interested persons should submit written data, views or arguments relating to the subjects of investigation to the Director, Office of Foreign Economic Policy, U.S. Department of Labor, Washington, D.C. on or before May 7, 1974.

Signed at Washington, D.C., this 23d day of April 1974.

MARVIN M. FOOKS,
Acting Director, Office of Foreign Economic Policy.

[FR Doc.74-9733 Filed 4-26-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 496]

ASSIGNMENT OF HEARINGS

APRIL 24, 1974.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only

once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 138256 Sub-2, Interior Transport, Inc., now assigned June 17, 1974, at Seattle, Washington, is cancelled and transferred to Modified Procedure.

MC 138677 Sub 2, MR Enterprizes, Inc., dba Mason's Biological & Medical Transportation Courier Service, now assigned May 20, 1974, at Washington, D.C., is cancelled and transferred to modified procedure.

MC-C-8060, The Maxwell Co., et al. V. American Bulk Transport, Inc. (Formerly), Eldon Miller, Inc., now assigned June 10, 1974, at Columbus, Ohio is postponed indefinitely.

MC-F-11991, Roadway Express, Inc.—Purchase (Portion)—England Transportation Co., Inc., MC-F-12029, Strickland Transportation Co., Inc.—Purchase (Portion)—England Transportation Co., Inc., now assigned June 17, 1974, will be held in Room 265, West Court Room, U.S. Court of Appeals, 600 Camp St., New Orleans, La.

MC 72243 Sub 34, The Aetna Freight Lines, Inc., Extension—New Orleans, La., MC 117565 Sub 82, Motor Service Co., Inc., Extension—New Orleans, La., now assigned June 19, 1974, will be held in Room 265, West Court Room, U.S. Court of Appeals, 600 Camp St., New Orleans, La.

MC 133168 Sub 2, Delta Express, Inc., now assigned June 24, 1974, will be held in Room 265, West Courtroom U.S. Court of Appeals, 600 Camp St., New Orleans, La.

MC 87720 Sub-159, Bass Transportation Co., Inc., now assigned June 5, 1974, at Washington, D.C., is cancelled and the application is dismissed.

F.D. 27506, Prairie Trunk Railway—Acquisition and Operation—Between Flora And Shawneetown, In Clay, Wayne, White, And Gallatin Counties, Illinois; and F.D. 27507, Prairie Trunk Railway-Securities, now assigned June 26, 1974, at Flora, Ill., is cancelled and reassigned to June 26, 1974, at Fairfield, Ill., at City Hall, 109 NE. 2nd Street.

MC-127527 Sub 16, Carl W. Reagan, DBA Southeast Trucking Co., now being assigned hearing June 10, 1974 (1 day), at Columbus, Ohio, in a hearing room to be later designated.

MC-119777 Sub 277, Ligon Specialized Hauler, Inc., now being assigned hearing June 11, 1974 (2 days), at Columbus, Ohio, in a hearing room to be later designated.

MC-115841 Sub 460, Colonial Refrigerated Transportation, Inc., now being assigned hearing June 13, 1974 (2 days), at Columbus, Ohio, in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-9740 Filed 4-26-74;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

APRIL 24, 1974.

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 May 14, 1974.

FSA No. 42829—*Corn and Soybeans from Sioux City, Iowa.* Filed by Trans—Continental Freight Bureau, Agent, (No. 487), for and on behalf of the Burlington Northern, Inc. Rates on corn and soybeans, in carloads, as described in the application, from Sioux City, Iowa, to Astoria, Oregon, for export. Grounds for relief—Rate relationship.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-9738 Filed 4-26-74;8:45 am]

[Notice 70]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before May 20, 1974. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-74987. By order of April 22, 1974, the Motor Carrier Board approved the transfer to Chester A. DeYoung and Karen M. DeYoung, a partnership, doing business as DeYoung Transfer and Storage Co., Livingston, Mont., of the operating rights in Certificate No. MC-110391 issued June 13, 1950, to Dale T. Snavely, doing business as Snavely Transfer & Storage, Livingson, Mont., authorizing the transportation of household goods, as defined by the Commission, between points in Park, Sweet Grass, and Meagher Counties, Mont., on the one hand, and, on the other, points in Idaho on and east of U.S. Highway 191 from the Idaho-Montana State line to and including Pocatello and on and north of an air line from Pocatello to the Idaho-Wyoming State line, and points in Wyoming on and west of a line extending along U.S. 89 from the Wyoming-Idaho State line to junction U.S. Highway 287, thence along U.S. Highway 287 to the southern boundary of Yellowstone National Park and on and west and north of U.S. Highway 287 from the southern boundary of Yellowstone National Park to Lander, Wyo., thence along Wyoming Highway 320 to Shoshoni, Wyo., thence along U.S. Highway 20 to Casper, Wyo., including Casper, and on and west of U.S. Highway 87 from Casper to Midwest, Wyo., thence along Wyoming Highway 387 to junction Wyoming Highway 59, thence along Wyoming Highway 59 to Gillette, Wyo., thence along U.S. Highway 16 to junction unnumbered Wyoming highway approximately five miles north of Gillette, thence along unnumbered Wyoming highway to the Wyoming-Montana State line. Joseph T. Swindlehurst, 420 South Second Street, Livingston, Mont. 59047, attorney for applicants.

No. MC-FC-75003. By order entered April 19, 1974, the Motor Carrier Board approved the transfer to MacEvoy, Inc., Philadelphia, Pa., of that portion of the operating rights set forth in Certificate No. MC-127487 (Sub-No. 2), issued May 3, 1967, and acquired by H. M. K. Trucking, Inc., Gloucester City, N. J., pursuant to No. MC-FC-74756, and assigned No. MC-139285, authorizing the transportation of heavy machinery, machine tools, electrical and steam equipment, vaults and parts thereof, and other heavy or bulky commodities requiring specialized handling and equipment, between Philadelphia, Pa., on the one hand, and, on the other, points in Pennsylvania within 150 miles of Philadelphia. Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102, attorney for appliacnts.

No. MC-FC-75050. By order of April 19, 1974, the Motor Carrier Board approved the transfer to Ferguson Transfer Company, a corporation, Coos Bay, Oreg., of Certificates Nos. MC-129732 and MC-129732 Sub 1, issued March 10, 1970, and June 1, 1971, respectively, to Empire Fuel & Transfer Co., a corporation, Coos Bay, Oreg., authorizing the transportation of used household goods between points in Coos County, Oreg.; and used household goods between points in Coos and Curry Counties, Oreg., on the one hand, and, on the other, points in Multnomah County, Oreg., respectively. Mr. Earle V. White, Attorney at Law, White & Southwell, 2400 S.W. Fourth Avenue, Portland, Oreg. 97201.

No. MC-FC-75094. By order of April 22, 1974, the Motor Carrier Board approved the transfer to Peace Bridge Brokerage Limited, Fort Erie, Ontario, Canada, of the operating rights in Certificate No. MC-135828 issued November 9, 1972, to Radio Taxi Service, Inc., Cheektowaga, N.Y., authorizing the transportation of general commodities, with usual exceptions, in express service, between points in Genesee, Erie, and Niagara Counties, N.Y., on the one hand, and, on the other, Buffalo, Lewiston, and Niagara Falls, N.Y., restricted to the transportation (1) of shipments originating at or destined to

points in Canada and (2) of packages or articles weighing in the aggregate less than 300 pounds per shipment from any one consignor to any one consignee on any one day. William J. Hirsch, 43 Court Street, Suite 1125, Buffalo, N.Y. 14202, attorney for applicants.

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

[FR Doc.74-9739 Filed 4-26-74;8:45 am]

[Notice 58]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

APRIL 23, 1974.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67, (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 22195 (Sub-No. 155 TA), filed April 11, 1974. Applicant: DAN DUGAN TRANSPORT COMPANY, a Corporation, 41st & Grange Avenue, P.O. Box 946, Sioux Falls, S. Dak. 57101. Applicant's representative: Fred Fischer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from East Grand Forks, Minn., to points in North Dakota, for 180 days. SUPPORTING SHIPPER: Fert-L-Flow, 1226 S. Main, Crookston, Minn. 56716, Charles G. Rongen, Manager. SEND PROTESTS TO: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 27356 (Sub-No. 7 TA), filed April 10, 1974. Applicant: M-F EXPRESS, INC., 610 E. Emma Ave., Springdale, Ark. 72764. Applicant's representative: Douglas C. Wynn, P.O. Box 1295, Greenville, Miss. 38701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, Classes A and B explosives, Household goods, or commodities which because of size, weight, or value require the use of special equipment), between Hattiesburg, Miss., junction U.S. Highway 98 and Mississippi Highway 26 at or near Lucedale, Miss., from Hattiesburg over U.S. Highway 49 to junction U.S. Highway 98 south of Hattiesburg; thence via U.S. Highway 98 to junction Mississippi Highway 26 at or near Lucedale, Miss., and return over the same route, as an alternate route for operating convenience only, serving no immediately points and serving Lucedale, Miss., as a point of joinder only, for 180 days.

NOTE.—Applicant states that it does intend to tack regular route authority in Docket No. MC 27356 and Subs; and interline with all carriers at all authorized service points.

SUPPORTING SHIPPERS: Jones Truck Lines, Inc.

No. MC 35628 (Sub-No. 356 TA), filed April 15, 1974. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, 134 Grandville Ave. SW., Grand Rapids, Mich. 49502. Applicant's representative: Leonard D. Verdier, Jr., 900 Old Kent Bldg., Grand Rapids, Mich. 49502. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite of and warehouse facilities utilized by American Beef Packers, Inc., at or near Cactus, Tex. (Moore County), to points in Nebraska, Kansas, Missouri, Iowa, Minnesota, Wisconsin, Illinois, Indiana, Michigan, Ohio, Pennsylvania, New Jersey, and New York, restricted to traffic originating at, or destined to, the named points, for 180 days. SUPPORTING SHIPPER: American Beef Packers, Inc., 7000 W. Center Road, Omaha, Nebr. SEND PROTESTS TO: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, Mich. 48933.

610 E. Emma Ave., Springdale, Ark. 72764, MC 111231.

NOTE.—Support statement is submitted by Jones Truck Lines, Inc., which was authorized on August 16, 1973, by order entered in Docket No. MC-F-11951, to assume temporary management control of MF Express, Inc. (MFX).

SEND PROTESTS TO: District Supervisor William H. Land, Jr., Bureau of Operations, Interstate Commerce Commission, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 106674 (Sub-No. 132 TA), filed April 20, 1974. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Jerry L. Johnson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe* from the plantsite of the Johns-Manville Products Corporation at or near Wilton (Muscatine County), Iowa, to points in Ohio and Pennsylvania, for 180 days. SUPPORTING SHIPPER: Johns-Manville Corporation, Greenwood Plaza, Denver, Colo. 80217. SEND PROTESTS TO: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 345 W. Wayne St., Room 204, Fort Wayne, Ind. 46802.

No. MC 109448 (Sub-No. 18 TA) filed April 11, 1974. Applicant: Parker Transfer Company, a Corporation, Telegraph Road, Mail: P.O. Box 256, Elyria, Ohio 44035. Applicant's representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, Ohio 44114. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: *Iron and steel sheets and coils*, from the plants and warehouses of Jones & Laughlin Steel Corporation at or near Cleveland, Ohio, to Fort Wayne, Union City, Seymour, Elwood, Anderson, Indianapolis, Bloomington, Evansville, Peru, Columbus, Madison, Jeffersonville, Vincennes, Terre Haute, Wabash, Logansport, Kokomo, Greencastle, Goshen, Connersville, Aurora, Mitchell, North Vernon, Lebanon, Portland, Cambridge City, Mishawaka, South Bend, New Castle, Decatur, Brazil, Tell City, Linton, Shelbyville, Markle, Flora, Auburn, Bluffton, New Albany, Attica, Greenfield, and Greensburg, Ind., for 180 days. SUPPORTING SHIPPER: Jones & Laughlin Steel Corporation, 3341 Jennings Road, Cleveland, Ohio 44101. SEND PROTESTS TO: Franklin D. Bail, District Supervisor, Interstate Commerce Commission, 181 Federal Office Building, 1240 East Ninth Street, Cleveland, Ohio 44199.

No. MC 109689 (Sub-No. 267 TA), filed March 12, 1974. Applicant: W. S. HATCH CO., 643 South 800 West, Woods Cross, Utah 84087. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nitrogen fertilizer solutions*, from Phoenix, Ariz., to points in Utah, for 180 days. SUPPORTING SHIPPER: Kerley Chemical Corporation of Arizona, 2801 West Osborn Road, Phoenix, Ariz. (F. L. Blake, Jr., Operations Manager). SEND PROTESTS TO: District Supervisor Lyle D. Helfer, Bureau of Operations, Interstate Commerce Commission, 5239 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 110525 (Sub-No. 1091 TA), filed April 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Avenue, P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same

address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Spent methanol*, in bulk, in tank vehicles, from Pittsfield, Mass., to Model City, N.Y.; and (2) *spent chlorinated solvents, spent freon, spent petroleum distillates, spent trichlorethylene, and spent perchorethylene*, in bulk, in tank vehicles, from Essex Junction, Vt., to Model City, N.Y., for 180 days. SUPPORTING SHIPPER: Chem-Trol Pollution Services, Inc., 1550 Balmer Road, P.O. Box 220, Model City, N.Y. 14107. SEND PROTESTS TO: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Federal Building, Room 3238, 600 Arch Street, Philadelphia, Pa. 19106.

No. MC 110525 (Sub-No. 1092 TA), filed April 11, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, 520 East Lancaster Ave., Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (Same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal oils and products of animal and vegetable oils*, in bulk, in tank vehicles, from Quincy, Mass., to points in New York; and (2) *dry sugar*, in bulk, in tank vehicles, from Philadelphia, Pa., and New York City, N.Y., to the International Boundary between the United States and Canada on the Niagara River for furtherance to Toronto, Ontario, for 180 days. SUPPORTING SHIPPERS: Michael Lenhardt Ltd., 198 Wildcat Rd., Downsview, Ontario M3J 2N5; The Procter & Gamble Distributing Co., P.O. 599, Cincinnati, Ohio 45201. SEND PROTESTS TO: Peter R. Guman, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Federal Bldg., Room 3238, 600 Arch St., Philadelphia, Pa. 19106.

No. MC 111401 (Sub-No. 412 TA), filed April 11, 1974. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vapor drying solvent* (petroleum naphtha), in bulk, in tank vehicles, from Cotton Valley, La., to Indianapolis, Ind., for 180 days. SUPPORTING SHIPPER: Kerr-McGee Corporation, Ray F. Fisher, Transportation Manager, Kerr-McGee Center, Oklahoma City, Okla. 73102. SEND PROTESTS TO: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 NW., Third, Oklahoma City, Okla. 73102.

No. MC 113908 (Sub-No. 316 TA), filed April 12, 1974. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar, vinegar stock, and vinegar stock concentrate*, in bulk, from Kansas City, Mo., to Jacksonville, Ill., for 180 days. SUPPORTING SHIPPER: Speas Company, 2400 Nicholson Avenue, Kansas City, Mo. 64120. SEND PROTESTS TO: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 116045 (Sub-No. 42 TA), filed April 11, 1974. Applicant: NEUMAN TRANSIT CO., INC., P.O. Box 38, East of Rawlins, Rawlins, Wyo. 82301. Applicant's representative: Leslie R. Kehl, 1600 Lincoln Center Bldg., Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Uranium slurry concentrate*, in bulk, in tank vehicles, from points in Live Oak County, Tex., to points in Fremont County, Wyo., for 180 days. SUPPORTING SHIPPER: Western Nuclear, Inc., Suite 387, One Park Central, Denver, Colo. 80202. SEND PROTESTS TO: District Supervisor Paul A. Naughton, Bureau of Operations, Interstate Commerce Commission, Rm. 1C06 Federal Bldg. and Post Office, 100 East "B" Street, Casper, Wyo. 82601.

No. MC 118034 (Sub-No. 19 TA), filed April 11, 1974. Applicant: MILLER TRUCK LINE, INC., 901 NE. 28th St., Fort Worth, Tex. 76106. Applicant's representative: Mert Starnes, 904 Lavaca, Austin, Tex. 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, and commodities in bulk, in tank vehicles), from the plantsite of and storage facilities utilized by American Beef Packers, Inc., at or near Cactus, Tex. (Moore County), to points in Texas, Oklahoma, Arkansas, Louisiana, New Mexico, Tennessee, Mississippi, Alabama, Georgia, and Florida, restricted to traffic originating at and destined to the named points, for 180 days. SUPPORTING SHIPPER: American Beef Packers, Inc., 7000 W. Center Road, Omaha, Nebr. SEND PROTESTS TO: H. C. Morrison, Sr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, 819 Taylor St., Ft. Worth, Tex. 76102.

No. MC 118142 (Sub-No. 69 TA), filed April 12, 1974. Applicant: M. BRUENGER & CO., INC., a Corporation, 6250 North Broadway, Wichita, Kans. 67219. Applicant's representative: John E. Jandera, 641 Harrison, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by products and articles distsributed by meat packinghouses*, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificate*, 61 M.C.C. 209 and 766, from Wichita, Kans., to Memphis, Tenn. and points in Louisiana, restricted, however, to shipments to Memphis, Tenn., and points in Louisiana, to those moving at the same time and in the same vehicle with shipments to points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee (except Memphis, Tenn.), for 180 days. SUPPORTING SHIPPER: Kansas Beef Industries, Inc., 900 East 21st Street, Wichita, Kans. SEND PROTESTS TO: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 119767 (Sub-No. 314 TA), filed April 9, 1974. Applicant: BEAVER TRANSPORT CO., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: David A. Petersen (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid and dry detergents*, in containers, in vehicles equipped with mechanical refrigeration, from Watertown, Wis., to Lexington, Ky., and Sioux Falls, S. Dak.; and (2) *materials and supplies* used in the manufacture of liquid and dry detergents, in containers, in vehicles equipped with mechanical refrigeration, from Chicago, Ill., to Watertown, Wis., for 180 days. SUPPORTING SHIPPER: U.S. Chemical Co., Watertown, Wis. 53094 (Joseph E. Kump, Traffic Manager). SEND PROTESTS TO: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 123048 (Sub-No. 304 TA), filed April 12, 1974. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, P.O. Box A, Racine, Wis. 43401. Applicant's representative: Carl S. Pope (same address as applicant). Authority sought to operate as a *Common carrier*, by motor vehicle, over irregular routes, transporting: *Cabs and canopies for agricultural, industrial and construction machinery and equipment*, from the plantsite of Royal Industries, Hinson Division at or near Waterloo, Iowa, to points in Michigan and Tennessee, for 180 days. SUPPORTING SHIPPER: Royal Industries, Hinson Division, 3470 West Airline Highway, Waterloo, Iowa (Floyd E. Bevard, Superintendent Shipping). SEND PROTESTS TO: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 123778 (Sub-No. 22 TA), filed April 11, 1974. Applicant: JALT CORP., doing busines as UNITED NEWSPAPER DELIVERY SERVICE, 75 Cutters Doch Road, P.O. Box 398, Woodbridge, N.J. 07095. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract car-*

rier, by motor vehicle, over irregular routes, transporting: *Magazines*, from Woodbridge, N.J., to points in Pennsylvania on and east of U.S. Highway 15, for 180 days. SUPPORTING SHIPPER: U.S. News & World Report, 350 Dennison Avenue, Dayton, Ohio 45401, Attention: L. Max Burris, Traffic Manager. SEND PROTEST TO: District Supervisor, Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

No. MC 123872 (Sub-No. 28 TA), filed April 12, 1974. Applicant: W & L MOTOR LINES, INC., P.O. Box 2607, Hickory, N.C. 28601. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Ave. NW., Suite 600, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and furniture parts*, from the plantsites and shipping facilities of Drexel Enterprises, Inc., Division of Champion International in Burke and McDowell Counties, N.C., to points in California, Oklahoma, New Mexico, and Texas, for 180 days. SUPPORTING SHIPPER: Drexel Enterprises, Division of Champion International, Drexel, N.C. 28619. SEND PROTESTS TO: District Supervisor Price, Bureau of Operations, Interstate Commerce Commission, 800 Briar Creek Road, CC516 Charlotte, N.C. 28205.

No. MC 124078 (Sub-No. 589 TA), filed April 11, 1974. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, Wis. 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, from Festus, Mo., to Muskogee, Okla., for 180 days. SUPPORTING SHIPPER: Martin Marietta Aggregates, 110 East Main Street, Rockton, Ill. 61072 (Duke J. Geng, Transportation Manager). SEND PROTESTS TO: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 127476 (Sub-No. 4 TA), filed April 15, 1974. Applicant: J. D. McCLYMONDS, INC., P.O. Box 72, Stoneboro, Pa. 16153. Applicant's representative: Warren R. Keck, III, 28 South Second Street, Greenville, Pa. 16125. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap grinding wheels*, in dump trucks, between the plant site of Bendix Corp., Westfield, Mass., on the one hand, and, on the other, the plant site of Detroit Abrasives, Chelsea, Mich., for 90 days. SUPPORTING SHIPPER: Detroit Abrasives, Chelsea, Mich. 48118. SEND PROTESTS TO: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 129191 (Sub-No. 5 TA), filed April 12, 1974. Applicant: RICHARD T. PLATTNER, doing business as JANS MOTOR SERVICE, 4640 West 120th St., Alsip, Ill. 60658. Applicant's representative: Albert A. Andrin, 29 S. La Salle St., Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron, steel and aluminum metal plate structures; erection equipment and parts thereof; and materials and supplies* used in the erection of metal plate structures, in self-unloading equipment, from Indiana Oaks, Ill., to Princeton, Ind.; Moscow, Ohio, Portage, Wis.; Big Stone, S. Dak.; Clearbrook, Red Wing, and Wescott, Minn.; Independence and Blue Springs, Mo.; Northwood, Iowa; and Detroit, Mich., for 180 days. SUPPORTING SHIPPER: Chicago Bridge & Iron Company, P.O. Box 774, Kankakee, Ill. 60901. SEND PROTESTS TO: Robert G. Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 133119 (Sub-No. 51 TA), filed April 15, 1974. Applicant: HEYL TRUCK LINES, INC., 235 Mill Street, P.O. Box 206, Akron, Iowa 51001. Applicant's representative: A. J. Swanson, 521 So. 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except frozen potatoes and potato products) (except commodities in bulk, in tank vehicles), from Grand Forks, N. Dak., to points in Arkansas, Arizona, California, Colorado, Iowa, Kansas, Missouri, Nebraska, Nevada, New Mexico, Oklahoma, South Dakota, Texas, Utah, and Wyoming, restricted to traffic originating at Grand Forks, N. Dak., for 180 days. SUPPORTING SHIPPER: Western Potato Service, Donald E. Morris, Traffic Manager, U.S. Highway 2, West, Grand Forks, N. Dak. SEND PROTESTS TO: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite 620, Union Pacific Plaza Building, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 133816 (Sub-No. 5 TA), filed April 15, 1974. Applicant: K & K WHOLESALE CO., P.O. Box 222, Lowell, Oreg. 97452. Applicant's representative: Howard E. Speer, 835 East Park Street, Eugene, Oreg. 97401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building stone*, crushed or broken, not otherwise processed, from points in Oregon and California, to points in Oregon, Clarke, and Cowlitz Counties, Wash., for 180 days. SUPPORTING SHIPPER: Northern Stone Supply, Inc., 125 Woodland Avenue, Reno, Nev. 89503. SEND PROTESTS TO: District Supervisor A. E. Odoms, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 133975 (Sub-No. 5 TA), filed April 12, 1974. Applicant: FLAMINGO TRANSPORTATION, INC., 1801 SW. 1st Avenue, Fort Lauderdale, Fla. 33315. Applicant's representative: Richard B. Austin, 214 Palm Coast II Building, 5255 NW. 87th Avenue, Miami, Fla. 33166. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment and mobile homes), between points in Dade, Broward, Palm Beach, Martin, St. Lucie, Indian River, Collier, and Lee Counties, Fla., and the City of Clewiston and its Commercial Zone, restricted to traffic having an immediate prior or subsequent handling by freight forwarders, for 180 days.

NOTE.—Applicant states that he does intend to tack with his authority in MC 133975 to points in Dade, Broward, Palm Beach Counties, Fla.

SUPPORTING SHIPPER: Florida-Texas Freight, Inc., P.O. Box 206, Miami, Fla. 33148. SEND PROTESTS TO: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, Palm Coast II Building, Suite 208, 5255 NW. 87th Avenue, Miami, Fla. 33166.

No. MC 134182 (Sub-No. 22 TA), filed April 15, 1974. Applicant: MILK PRODUCERS MARKETING COMPANY, doing business as ALL-STAR TRANSPORTATION, Second and West Turnpike Road, P.O. Box 505, Lawrence, Kans. 66044. Applicant's representative: Lucy Kennard Bell, Suite 910 Fairfax Bldg., 101 West Eleventh St., Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the packinghouse facilities of Seitz Foods, Incorporated, at or near St. Joseph, Mo., to Philadelphia, Pa., and its commercial zone as defined by the Commission; Knoxville, Tenn.; East Point and Atlanta, Ga., for 180 days.

NOTE.—Applicant states it does not intend to tack the authority here applied for to another authority held by it, or to interline with other carriers.

SUPPORTING SHIPPER: Seitz Foods, Incorporated, P.O. Box 247, St. Joseph, Mo. 64502. SEND PROTESTS TO: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 234 Federal Building, Topeka, Kans. 66603.

No. MC 134922 (Sub-No. 73 TA), filed April 9, 1974. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: L. C. Cypert (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Newark, N.J., and 10 miles thereof, New York City, N.Y., and Philadelphia, Pa., to Little Rock and Hot Springs, Ark., for 180 days. SUPPORTING SHIPPERS: Cheese Keeper, 1517 Rebsamen Park Rd.,

Little Rock, Ark.; Cheese Seller, 1907 Central, Hot Springs, Ark. 71901; Jay Freeman Company, Inc., 2323 E. Roosevelt, Little Rock, Ark.; Van-Dee Foods, 2827 Parkway Drive, North Little Rock, Ark.; Mr. Dunder Bak's, McCain Mall, North Little Rock, Ark. 72116; Cheeser's Palace, 10020 N. Rodeny Parham Rd., Little Rock, Ark. SEND PROTESTS TO: District Supervisor William H. Land, Jr., Bureau of Operations, Interstate Commerce Commission, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 135185 (Sub-No. 18 TA), filed April 12, 1974. Applicant: COLUMBINE CARRIERS, INC., 5925 East Evans Avenue, P.O. Box 22198, Denver, Colo. 80222. Applicant's representative: Charles J. Kimball, 2310 Colorado State Bank Bldg., 1600 Broadway, Denver, Colo. 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, and commodities in bulk, in tank vehicles), from the plantsite of and storage facilities utilized by American Beef Packers, Inc., at or near Cactus, Tex. (Moore County), to points in Maryland, District of Columbia, New Jersey, New York, Pennsylvania, Connecticut, Rhode Island, Massachusetts, Illinois, Indiana, Michigan and Ohio, for 180 days. Restriction: Restricted to traffic originating at, and destined to, the named points. SUPPORTING SHIPPER: American Beef Packers, Inc., 7000 W. Center Road, Omaha, Nebr. SEND PROTESTS TO: District Supervisor Herbert C. Ruoff, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 135858 (Sub-No. 4 TA), filed April 15, 1974. Applicant: A. G. KNORR, ROBERT D. KNORR AND GENE A. KNORR, doing business as KNORR TRUCKING, Sawyer, N. Dak. 58781. Applicant's representative: Harris P. Kenner, 615 South Broadway, P.O. Box 36, Minot, N. Dak. 58701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tires and tubes*, from manufacturing plant at Waco, Tex., to Fargo, N. Dak., for 150 days. SUPPORTING SHIPPER: North Dakota Farm Bureau Trade Development and Service Corporation, Fargo, N. Dak. 58102. SEND PROTESTS TO: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 135877 (Sub-No. 15 TA), filed April 11, 1974. Applicant: RONALD R. BRADER, doing business as SPECIALIZED TRUCKING SERVICE, 1508 South 4th Avenue, Yakima, Wash. 98902. Applicant's representative: Earle V. White, 2400 SW. Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery goods*, from the plantsite and facilities of Nabisco, Inc., at Portland, Oreg., to points in California, for 180 days. SUPPORTING SHIPPER: Nabisco, Inc., 425 Park Avenue, New York, N.Y. 10022. SEND PROTESTS TO: District Supervisor Huetig, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 136786 (Sub-No. 54 TA), filed April 11, 1974. Applicant: ROBCO TRANSPORTATION, INC., Room 205, 3033 Excelsior Blvd., Minneapolis, Minn. 55416. Applicant's representative: K. O. Patrick (Same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed, by meat* packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite of and storage facilities utilized by American Beef Packers, Inc., at or near Cactus, Tex., (Moore County), to points in California, Alabama, Georgia, Florida, North Caroline, South Carolina, North Dakota, South Dakota, Nebraska, Kansas, Missouri, Iowa, Minnesota, Wisconsin, and Illinois, restricted to traffic originating at and destined to the named points, for 180 days. SUPPORTING SHIPPER: American Beef Packers, Inc., 7000 W. Center Road, Omaha, Nebr. SEND PROTESTS TO: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 139420 (Sub-No. 4 TA), filed April 10, 1974. Applicant: ART GREENBERG, doing business as GLACIER TRANSPORT, P.O. Box 428, Grand Forks, N. Dak. 58201. Applicant's representative: James B. Hovland, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Irrigation systems and parts and accessories* for irrigation systems, from the facilities of Valmont Industries, Inc., at or near Valley, Nebr., to points in North Dakota and those points in Minnesota on and west of U.S. Highway 71 which are on and north of U.S. Highway 12, for 180 days. SUPPORTING SHIPPER: Butler I & I, Box 2587, Fargo, N. Dak. 58102. SEND PROTESTS TO: J. H. Ambs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 139498 (Sub-No. 1 TA), filed April 9, 1974. Applicant: FRANCIS D. BROWN & SON, INC., 3121 Crosby Street, Klamath Falls, Oreg. 97601. Applicant's representative: Robert R. Hollis, 400 Pacific Building, Portland, Oreg. 97204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood waste products*, from points in Siskiyou, Shasta, Modoc, and Lassen Counties, Calif., to points in Jackson County, Oreg., for 180 days. SUPPORTING SHIPPER: Weyerhaeuser Company, P.O. Box 9, Klamath Falls, Oreg. 97601. SEND PROTESTS TO: District Supervisor A. E. Odoms, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 139616 (Sub-No. 1 TA), filed April 9, 1974. Applicant: G. EGERTON, INC., doing business as FAR WEST ASSOCIATES, 2300 Harbor Blvd., Costa Mesa, Calif. 92626. Applicant's representative: Kellner & Steffire, 700 South Flower St., Suite 818, Los Angeles, Calif. 90017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Textiles, synthetic knitting yarn, and carpet yarn*, from the plant site of Pharr Yarns in McAdenville and Gastonia, N.C., Clover, S.C., and Rome, Ga., to various points in Los Angeles and Orange Counties, Calif., for 180 days. SUPPORTING SHIPPER: Pharr Yarns, Inc., McAdenville, N.C. 28101. SEND PROTESTS TO: District Supervisor Philip Yallowitz, Bureau of Operations, Interstate Commerce Commission, 300 N. Los Angeles Street, Room 7708, Los Angeles, Calif. 90012.

No. MC 139627 (Sub-No. 1 TA), filed April 9, 1974. Applicant: INTERMOUNTAIN TRUCK BROKERS, INC., 1050 Yuma Street, Suite 109, Denver, Colo. 80204. Applicant's representative: Chester R. R. Zyblut, 1522 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectioneries, premiums and advertising matter* necessary for the sale and distribution of those commodities, from Mansfield and Cambridge, Mass., to Denver, Colo., Commercial Zone, Salt Lake City, Utah Commercial Zone, Portland, Oreg., Commercial Zone, and Seattle, Wash., Commercial Zone, for 180 days. SUPPORTING SHIPPERS: Nabisco Confections Inc., 810 Main Street, Cambridge, Mass. 02139; New England Confectionery Company, 254 Mass. Ave., Cambridge, Mass. 02139. SEND PROTESTS TO: District Supervisor Herbert C. Ruoff, Bureau of Operations, Interstate Commerce Commission, 2022 Federal Building, Denver, Colo. 80202.

No. MC 139666 (Sub-No. 1 TA), filed April 15, 1974. Applicant: AICRAG CORPORATION, 2721 SW. Plum Ct., Portland, Oreg. 97219. Applicant's representative: Frank E. Larwood, 4786 SW. Elm Lane, Portland, Oreg. 97221. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, in tank vehicles), having an immediately prior or subsequent movement by air transportation, between Portland International Airport, Oregon and Seattle-Tacoma International Airport, Washington, for 180 days. SUPPORTING SHIPPER: The Flying Tiger Line, Inc.,

7155 NE. Airport Way, Portland, Oreg. 97218. SEND PROTESTS TO: District Supervisor W. J. Huetig, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 139687 (Sub-No. 1 TA), filed April 11, 1974. Applicant: H. G. MARTIN, P.O. Box 116, Maxville, Fla. 32265. Applicant's representative: Sol H. Proctor, 1107 Blackstone Building, Jacksonville, Fla. 32202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, in bulk, from the plant site of Coastal Lumber Company at or near Maxville, Fla. (Clay County) to the plant site of Gilman Paper Co., at or near St. Marys, Ga., for 180 days. SUPPORTING SHIPPER: Coastal Lumber Co., P.O. Box 116, Maxville, Fla. 32265. SEND PROTESTS TO: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 W. Bay Street, Jacksonville, Fla. 32202.

No. MC 139694 TA, filed April 12, 1974. Applicant: D. G. LLOYD TRUCKING, INC., 757 Empire Boulevard, Brooklyn, N.Y. 11227. Applicant's representative: Samuel B. Zinder, 98 Cutter Mill Road, Great Neck, N.Y. 11021. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper products*, from Brooklyn, N.Y., to points in New Jersey, Connecticut, and Pennsylvania, for 150 days. SUPPORTING SHIPPER: Tost Whse. & Dist. Corp., 66–25 Traffic Avenue, Brooklyn, N.Y. 11227. SEND PROTESTS TO: Marvin Kampel, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 139695 TA, fied April 15, 1974. Applicant: MID AMERICA MOVERS, INC., 225 So. Franklin, Junction City, Kans. 66441. Applicant's representative: Paul V. Dugan, 2707 W. Douglas, Wichita, Kans. 67213. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods, unaccompanied luggage*, restricted to the transportation of traffic having a prior or subsequent movement in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, between Junction City, Fort Riley, Kans., on the one hand, and points in Clay, Geary, Dickinson, Marshall, Pottawatomie, Washington, Riley and Morries Counties, Kans., on the other, for 190 days.

NOTE.—Applicant does not intend to tack the authority here applied for to another authority held by it or to interline.

SUPPORTING SHIPPER: Department of Defense, Procurement Office, Fort Riley, Kans., 66442. SEND PROTESTS TO: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 234 Federal Building, Topeka, Kans. 66603.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-9241 Filed 4-26-74;8:45 am]

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MONDAY, APRIL 29, 1974
WASHINGTON, D.C.
Volume 39 ■ Number 83

PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PUBLIC HEALTH SERVICE

■

Grants for Training in Emergency Medical Services

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 57]

EMERGENCY MEDICAL SERVICES

Grants for Training

Notice is hereby given that the Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare, proposes to add a new Subpart V to Part 57 of Title 42, Code of Federal Regulations, as set forth in tentative form below, entitled "Grants for Training in Emergency Medical Services."

Section 3(a) of the Emergency Medical Services Systems Act of 1973 (Pub. L. 93–154) added a new section 776 to the Public Health Service Act which authorizes the Secretary of Health, Education, and Welfare, to make grants to schools of medicine, dentistry, osteopathy, nursing, training centers for allied health professions, and other appropriate educational entities to assist in meeting the cost of training programs in the techniques and methods of providing emergency medical services, including the skills required in connection with the provision of ambulance service. The purpose of the new subpart is to establish regulations implementing section 776 of the Public Health Service Act.

Written comments concerning the proposed regulations are invited from interested persons. Inquiries may be addressed, and data, views and arguments relating to the proposed regulations may be presented in writing in triplicate, to the Director, Bureau of Health Resources Development, Health Resources Administration, 9000 Rockville Pike, Building 31, Rm. 5C02, Bethesda, Maryland 20014. All comments received in response to this notice will be available for public inspection at the Office of Grants Policy, Bureau of Health Resources Development, Health Resources Administration, 9000 Rockville Pike, Building 31, Rm. 5B34, Bethesda, Maryland 20014 on weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m. All relevant material received on or before May 14, 1974, will be considered.

It is therefore proposed to add a new Subpart V to Part 57 as set forth below:

Dated: April 8, 1974.

CHARLES C. EDWARDS,
Assistant Secretary for Health.

Approved: April 22, 1974.

CASPAR W. WEINBERGER,
Secretary.

Amend Part 57 by adding thereto a new Subpart V as follows:

Subpart V—Grants for Training in Emergency Medical Services

Sec.

AUTHORITY: Sec. 215, 58 Stat. 690, as amended, (42 U.S.C. 216).

Subpart V—Grants for Training in Emergency Medical Services

§ 57.2101 Applicability.

The regulations of this subpart are applicable to the award of grants to schools of medicine, dentistry, osteopathy, and nursing, training centers for allied health professions, and other appropriate educational entities to assist in meeting the cost of training programs in the techniques and methods of providing emergency medical services.

§ 57.2102 General Policy.

Grant awards will be made under this subpart for the purpose of assisting eligible educational entities in the establishment, improvement, or expansion of training programs in the techniques and methods of providing emergency medical services (including the skills required in connection with the provision of ambulance service), which will contribute to the establishment, operation, improvement, or expansion of emergency medical services systems.

§ 57.2103 Definitions.

(a) "Act" means the Public Health Service Act, as amended.

(b) "Budget period" means the interval of time into which an approved activity is divided for budgetary purposes as specified in the grant award document.

(c) "Clinical experience" means direct, supervised participation in patient care by observation, examination, and performance of procedures as are appropriate for the assigned role of the practitioner or the trainee on the health team.

(d) "Educational entity" means a public or non-profit private school of medicine, osteopathy, or dentistry as defined in section 724 of the Act which is accredited as provided in section 775 (b)(2) of the Act, school of nursing as defined in section 843 of the Act, or training center for allied health professions as defined in section 795(1) of the Act, or a public or non-profit private organization which has education as a major function and which itself delivers emergency medical services or has a written agreement with an organization which delivers such services whereby such organization will provide the setting for clinical experience required for the proposed training.

(e) "Emergency medical services" means the services utilized in responding to the perceived individual need for immediate medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury.

(f) "Project period" means the time for which support for a project has been approved, as specified in the grant award document.

(g) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

§ 57.2104 Eligibility.

To be eligible for a grant under this subpart the applicant shall:

(a) Be an educational entity as defined in § 57.2103.

(b) Be located in any one of the several states of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam American Samoa, or the Trust Territory of the Pacific Islands.

§ 57.2105 Application.

(a) Each entity desiring a grant under this subpart shall submit an application at such times and in such form as the Secretary may prescribe. For State and local governments, as those terms are defined in subpart A of 45 CFR Part 74, attention is called to the forms required by subpart N of 45 CFR Part 74. Such application shall be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations of this subpart.

(b) The application shall contain a full and adequate description of the project and of the manner in which the applicant intends to conduct the project and carry out the requirements of this subpart, a budget and justification of the amount of grant funds requested and such other pertinent information as the Secretary may prescribe.

§ 57.2106 Project requirements.

To be considered for approval under this subpart, an application must, at a minimum, meet each of the following requirements:

(a) Propose a training program(s) in the techniques and methods of providing emergency medical services for students or professionals in medicine, dentistry, osteopathy, nursing, allied health, or other health fields.

(b) Provide evidence satisfactory to the Secretary that, where such exist, the program meets relevant standards and guidelines established by appropriate:

(1) Accrediting bodies recognized by the Commissioner of Education, or

(2) Federal or State agencies, or

(3) Professional associations (where the program is for retraining or continuing education); unless the Secretary determines, for demonstration purposes, that the requirement of this paragraph should be waived on an application by application basis: *Provided, however,* That programs for the basic training of emergency medical technicians-ambulance must meet the standards prescribed by the Department of Transportation (DHEW PHS Pub. No. 1071–C–4,

April 1970) or their equivalent. In order that a program be recognized as meeting "equivalent" standards, the Secretary must find that at least 75 percent of the graduates of such program either pass the National Registry of Emergency Medical Technicians examination within six months after graduation or meet applicable State requirements which are determined by the Secretary to equal or exceed Department of Transportation requirements.

(c) Provide evidence satisfactory to the Secretary that for persons who do not possess the requisite credentials for employment in the State(s) in which the program is conducted in the field in which the training is proposed, the program will provide to its graduates the training needed to obtain such credentials according to the State's(s') applicable laws or regulations.

(d) Demonstrate a need for the type of educational program proposed by providing evidence of the unavailability of educational programs necessary to supply and maintain sufficient numbers of physicians (doctors of medicine and doctors of osteopathy), dentists, nurses, allied health, or other health personnel skilled in the provision of emergency medical services who possess the requisite credentials to practice according to the State's(s') applicable laws or regulations to enable emergency medical services to be available on a 24 hour basis within the geographic area for which the applicant proposes to train such manpower.

(e) Provide evidence satisfactory to the Secretary that an appropriate setting for the clinical experience required for the proposed training will be provided either by the applicant itself or through a written agreement with an organization delivering emergency medical services.

(f) Set forth specific, measurable objectives for the educational program that are consistent with the purposes of section 776 of the Act.

(g) Describe the content of the proposed program in light of the objectives set forth in paragraph (f) of this section.

(h) Describe a methodology for assessing the proposed educational program, the performance of the trainees and the degree to which the defined objectives are met.

(i) Specify the number of students to be trained in each training cycle.

(j) Describe the trainee selection criteria and process and the applicant pool. Where appropriate, the applicant shall use the "Military Experience Directed into Health Careers" agency of the State(s) included in the geographic area set forth in paragraph (d) of this section to recruit veterans of the Armed Forces with military training and experience in health care fields.

(k) Provide evidence satisfactory to the Secretary that the applicant will have available adequate faculty, staff, facility and equipment resources for the conduct of the program.

(l) Provide evidence that the proposed project is coordinated with other programs (existing or planned) in the geographic area set forth in paragraph (d) of this section for which the applicant proposes to educate manpower skilled in delivering emergency medical services.

(m) Describe the extent to which funds have either been sought by and/or have been made available to the applicant from Federal programs authorized by other than the Act, for the conduct of the type of educational program proposed.

(n) Describe the extent to which the program intends to emphasize the recruitment and necessary training of veterans of the Armed Forces with military training and experience in health care fields and of appropriate public safety personnel, which includes policemen, firemen, and other public employees charged with maintaining public safety.

§ 57.2107 Grant awards.

(a) Within the limits of funds available for such purpose, the Secretary may award grants to those applicants whose projects will, in his judgment, best promote the purposes of section 776 of the Act, taking into consideration, among other pertinent factors: (1) The degree to which the project plan adequately provides for the elements set forth in § 57.2106; (2) the potential effectiveness of the proposed project in carrying out such training purposes; (3) the capability of the applicant to carry out the proposed project; and (4) the soundness of the fiscal plan for assuring effective utilization of grant funds and the potential of the project to continue on a self-sustaining basis.

(b) Priority will be accorded to those projects which afford as part of their training program clinical experience in emergency medical services systems receiving assistance under Title XII of the Act.

(c) The amount of any award under this subpart shall be determined by the Secretary on the basis of his estimate of the sum necessary for the direct costs of the project plus an additional amount for indirect costs, if any, which will be calculated by the Secretary on the basis of a percentage of all, or a portion of, the estimated direct costs of the project when there are reasonable assurances that the use of such percentage will not exceed the approximate actual indirect costs. Such award may include an estimated provisional amount for indirect costs or for designated direct costs (such as fringe benefit rates) subject to upward (within the limits of available funds) as well as downward adjustments to actual costs when the amount properly expended by the grantee for provisional items has been determined by the Secretary.

(d) All grant awards shall be in writing, shall set forth the amount of funds granted and the period for which such funds will be available for obligation by the grantee.

(e) Neither the approval of any project nor the ward of any grant shall commit or obligate the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved project or portion thereof. For continuation support, grantees must make separate application at such times and in such form as the Secretary may prescribe.

§ 57.2108 Payments.

The Secretary shall from time to time make payments to a grantee of all or a portion of any grant award either in advance or by way of reimbursement for expenses incurred or to be incurred in accordance with its approved application.

§ 57.2109 Expenditure of grant funds.

(a) Any funds granted pursuant to this subpart shall be expended solely for carrying out the approved project in accordance with the provisions of section 776 of the Act, the regulations of this subpart, the terms and conditions of the award, and the applicable cost principles prescribed by subpart Q of 45 CFR Part 74.

(b) Any unobligated grant funds remaining in the grant account at the close of the budget period may be carried forward and be available for obligation during a subsequent budget period of the project period. Any subsequent award shall take into consideration the amount remaining in the grant account. At the end of the last budget period of the project period, any unobligated grant funds remaining in the grant account must be refunded to the Federal Government.

§ 57.2110 Nondiscrimination.

(a) Attention is called to the requirements of section 799A of the Act of 45 CFR Part 83 which together provide that the Secretary may not make a grant, loan guarantee, or interest subsidy payment under Title VII of the Act to, or for the benefit of, any entity unless he receives satisfactory assurances that the entity will not discriminate on the basis of sex in the admission of individuals to its training programs.

(b) Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d et seq.) which provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such Title VI, which is applicable to grants made under this subpart, has been issued by the Secretary with the approval of the President (45 CFR Part 80).

(c) Attention is called to the requirements of Title IX of the Education Amendments of 1972 and in particular to section 901 of such Act which provides that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

(d) Grant funds used for remodeling, alterations, or repairs shall be subject to

the conditions that the grantee shall comply wth requirements of Executive Order 11246, 30 FR 12319 (September 24, 1965), as amended, and with the applicable rules, regulations, and procedures prescribed pursuant thereto.

§ 57.2111 Grantee accountability.

(a) *Accounting for grant award payments.* All payments made by the Secretary shall be recorded by the grantee in accounting records separate from the records of all other grant funds, including funds derived from other grant awards. With respect to each approved project the grantee shall account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures for costs meeting the requirements of this subpart.

(b) *Accounting for royalties.* Royalties received by grantees from copyrights on publications or other works developed under the grant, or from patents or inventions conceived or first actually reduced to practice in the course of or under such grant, shall be accounted for as follows:

(1) *State and local governments.* Where the grantee is a State or local government as those terms are defined in Subpart A of 45 CFR Part 74, royalties shall be accounted for as provided in 45 CFR 74.44.

(2) *Grantees other than State and local governments.* Where the grantee is not a State or local government as those terms are defined in Subpart A of 45 CFR Part 74, royalties shall be accounted for a follows:

(A) Patent royalties, whether received during or after the grant period, shall be governed by agreements between the Assistant Secretary for Health, Department of Health, Education, and Welfare, and the grantee, pursuant to the Department's patent regulations (45 CFR Parts 6 and 8).

(B) Copyright royalties, whether received during or after the grant period, shall first be used to reduce the Federal share of the grant to cover the costs of publishing or producing the materials, and any royalties in excess of the costs of publishing or producing the materials shall be distributed in accordance with Chapter 1–420 of the Department of Health, Education, and Welfare Grants Administration Manual.[1]

(c) *Grant close-out.*—(1) *Date of final accounting.* A grantee shall render, with respect to each approved project, a full account, as provided herein, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of (i) any amount not accounted for pursuant to paragraphs (a) and (b) of this section; and (ii) any other amounts required pursuant to Subparts F, M, and O of 45 CFR Part 74. Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or assignees by set off or other action as provided by law.

§ 57.2112 Publications and copyright.

(a) *State and local governments.* Where the grantee is a State or local government as those terms are defined in Subpart A of 45 CFR Part 74, the Department of Health, Education, and Welfare copyright requirement set forth in 45 CFR 74.140 shall apply with respect to any book or other copyrightable materials developed or resulting from a project supported by a grant under this subpart.

(b) *Grantees other than State and local governments.* Where the grantee is not a State or local government as those terms are defined in Subpart A of 45 CFR Part 74, except as may otherwise be provided under the terms and conditions of the award, the grantee may copyright without prior approval any publications, films, or similar materials developed or resulting from a project supported by a grant under this subpart, subject to a royalty-free, non-exclusive, and irrevocable license or right in the Government to reproduce, translate, publish, use, disseminate and dispose of such materials, and to authorize others to do so.

§ 57.2113 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this subpart to State and local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of 45 CFR Part 74 shall also apply to all other grantee organizations under this subpart.

Subpart
- A General.
- B Cash Depositories.
- C Bonding and Insurance.
- D Retention and Custodial Requirements for Records.
- F Grant-Related Income.
- K Grant Payment Requirements.
- L Budget Revision Procedures.
- M Grant Close-out, Suspension, and Termination.
- O Property.
- Q Cost Principles.

§ 57.2114 Additional conditions.

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the approved project, the interests of the public health or the conservation of grant funds.

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[1] The Department of Health, Education, and Welfare Grants Administration Manual is available for public inspection and copying at the Department's and Regional Offices' information centers listed in 45 CFR 5.31 and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.