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federal register

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Advisory Committees; (open and closed) 10–2 through 11–1–75. 43533; 9–22–75

Anesthesiology Devices Review Panel; Pulmonary Functions Subcommittee to be held in Washington, D.C. (open and closed); 11–5–75. 49115; 10–21–75

Anesthesiology Devices Review Panel to be held in Washington, D.C. (open and closed); 11–6–75. 49115; 10–21–75

In Vitro Diagnostic Products Advisory Committee; Toxicology Subcommittee to be held in Washington, D.C. (open and closed); 11–5 and 11–6–75..... 49115; 10–21–75

National Institutes of Health—

Committees of the Breast Cancer Task Force, to be held in Bethesda, Md. (open), 11–5–75..... 42386; 9–12–75

High Blood Pressure Work Group; to be held in Bethesda, Maryland (open), 11–6–75..... 48541; 10–16–75

NANCDS Council Planning Subcommittee, to be held in Bethesda, Md. (partially open), 11–6–75. 44174; 9–25–75

Periodontal Diseases Advisory Committee; to be held in Bethesda, Maryland (open), 11–6–75. 48543; 10–16–75

Periodontal Diseases Advisory Committee; to be held in Bethesda, Maryland (open with restrictions), 11–7–75..... 46341; 10–7–75

Virus Cancer Program Joint Working Conference, to be held in Hershey, Penn. (open), 11–3 thru 11–5–75. 44176; 9–25–75

Virus Cancer Program Scientific Review Committee; to be held in Hershey, Pennsylvania and Bethesda, Maryland (partially open), 11–6 and 11–7–75..... 46342; 10–7–75

Office of the Secretary—

Secretary's Advisory Committee on the Rights and Responsibilities of Women; to be held in Washington, D.C. (open with restrictions), 11–6 and 11–7–75.... 48960; 10–20–75

INTERIOR DEPARTMENT

Bureau of Land Management—

Baker District Advisory Board; to be held at Baker, Oreg. (open), 11–6–75..... 47154; 10–8–75

Burns District Multiple Use Advisory Board; to be held at Burns, Oreg. (open), 11–5–75.. 47154; 10–8–75

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Montana State Advisory Board; to be held in Billings, Mont. (open with restrictions), 11–6 and 11–7–75. 45452; 10–2–75

Salmon District Mutiple Use Advisory Board; to be held in Salmon, Idaho (open), 11–6–75..... 47807; 10–10–75

New Mexico Multiple Use Advisory Board, to be held in Albuquerque, N.M. (open), 11–11 and 11–12–75. 48702; 10–17–75

Wyoming State Multiple Use Advisory Board; to be held at Casper, Wyoming (open), 11–6 and 11–7–75. 48535; 10–16–75

National Park Service—

Cape Cod National Seashore Advisory Commission, to be held in South Wellfleet, Mass. (open with restrictions) 11–7–75.. 48704; 10–17–75

Great Sands Dunes National Monument; to be held in Alamosa, Calif. (open); 11–6–75.. 44592; 9–29–75

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Employee Benefits Security Office—

Advisory Council on Employee Welfare and Pension Benefit Plans, to be held in Wash. D.C. (open), 11–5 and 11–6–75..... 49422; 10–22–75

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NASA Research and Technology Advisory Council (open with restrictions), 11–6 and 11–7–75..... 48976; 10–20–75

Space Science Steering Committee, Ad Hoc Subcommittee to Review the Phase 1 Definition Studies of the Solar Maximum Mission Payload; to be held in Greenbelt, Md. (closed), 11–4, 11–5, and 11–6.... 48977; 10–20–75

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal-State Partnership Advisory Panel; to be held in Milwaukee, Wis., Racine, Wis., and Milwaukee, Wis. (open with restrictions and closed), 11–5, 11–6, and 11–7, respectively. 48977; 10–20–75

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Advisory Committee on Reactor Safeguards Procedures Subcommittee; to be held in Washington, D.C. (closed), 11–5–75..... 48404; 10–15–75

Advisory Committee on Reactor Safeguards, Subcommittee on the Pilgrim Nuclear Power Station, Unit 2; to be held in Plymouth, Mass. (open and closed); 11–4–75.. 48979; 10–20–75

Advisory Committee on Reactor Safeguards Subcommittee on Regulatory Guides to be held in Washington, D.C. (open and closed); 11–5–75.... 49156; 10–21–75

Advisory Committee on Reactor Safeguards, Subcommittee on Palo Verde Nuclear Plant, Unit 1, 2, and 3 to be held in Washington, D.C. (open and closed); 11–5–75.. 49156; 10–21–75

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Lower Rio Grande Valley District Advisory Council; to be held in Harlingen, Tex. (open), 11–4–75.... 48963; 10–20–75

Montpelier District Advisory Council; to be held in Waterbury, Vt. (open), 11–5–75..... 48963; 10–20–75

Omaha District Advisory Council; to be held in Norfolk, Neb. (open), 11–6–75..... 45484; 10–2–75

STATE DEPARTMENT

Agency for International Development—

Voluntary Foreign Aid Advisory Committee; to be held in Washington, D.C. (open), 11–6 and 11–7–75. 49111; 10–21–75

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Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; to be held at Washington, D.C. (open), 11–5 and 11–6–75 (4 documents).. 48145–48146; 10–14–75

Shipping Coordinating Committee, United States National Committee for the Prevention of Marine Pollution; to be held in Washington, D.C., 11–6–75..... 46324; 10–7–75

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National Boating Safety Advisory Council Flotation Subcommittee; to be held at Washington, D.C. (open), 11–4–75..... 47175; 10–8–75

National Boating Safety Advisory Council; to be held at Washington, D.C. (open), 11–5 and 11–6–75. 47175; 10–8–75

New York Harbor Vessel Traffic System Advisory Committee; to be held at Governors Island, New York (open), 11–5–75..... 48387; 10–15–75

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Veterans Administration Wage Committee; to be held in Wash. D.C. (closed), 11–6–75..... 44208; 9–25–75

presidential documents

Title 3—The President

PROCLAMATION 4402

Country Music Month, October 1975

By the President of the United States of America

A Proclamation

Country music—that uniquely American art form—holds a special place in our society. Its stories of struggle, of patience, of patriotism, of love won and lost—all set to music as distinctive and eloquently simple as any in the world—give pleasure and inspiration to millions of Americans.

Because country music plays such a significant role in American life, because its stars and its fans alike represent the very heart of America, it is particularly fitting that we as a Nation pay tribute to this very special kind of music. In doing so, we honor the hundreds of talented people who make that music, and the millions more who enjoy it.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, designate October 1975 as Country Music Month, and encourage all Americans to commemorate this designation with suitable observances.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of October, in the year of our Lord nineteen hundred seventy-five, and of the Independence of the United States of America the two hundredth.

Gerald R. Ford

[FR Doc.75-29252 Filed 10-28-75;10:33 am]

PROCLAMATION 4403

National Parkinson Week, 1975

By the President of the United States of America

A Proclamation

Of all the illnesses threatening our older citizens, Parkinson's disease is one of the most devastating. One in forty Americans past middle age may be afflicted. The human as well as monetary costs are virtually incalculable.

Ten years ago, when the first proclamation of National Parkinson Week was issued and signed into law, a diagnosis of Parkinson's disease was usually accompanied by advice to the family that little could be done. Today, there is much that can be done, and prospects are steadily improving. Advances in drug treatment have put many disabled workers back on the job and have enabled many retirees to live their normal lives. For some, the change has been a real miracle.

However, the battle is not over. Drugs can control the symptoms of Parkinson's disease, but they do not cure or arrest it. Since the cause is still unknown, prevention is not possible. Scientists are working constantly to find the cause. We must support them so the spectacular research momentum of the past ten years can be sustained.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, do hereby proclaim the week of October 26, 1975, as National Parkinson Week. I urge physicians, scientists and government and private agencies concerned with Parkinson's disease to sponsor activities designed to inform every American of the need to continue the struggle and the need of their support.

I invite the Governors of the States and appropriate local government officials to support National Parkinson Week activities, and I urge the Nation's mass communications media to join in encouraging all Americans to heed the message.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of October, in the year of our Lord nineteen hundred seventy-five and of the Independence of the United States of America the two hundredth.

Gerald R. Ford

[FR Doc.75-29253 Filed 10-28-75;10:34 am]

PROCLAMATION 4404

Wright Brothers Day, 1975

By the President of the United States of America

A Proclamation

On December 17, 1903, near Kitty Hawk, North Carolina, two brothers made the first successful flight in a heavier-than-air, mechanically propelled airplane they had designed and built after years of experimentation.

Through ingenuity and courage, Orville and Wilbur Wright revolutionized transportation. In the 72 years since their epic flight, aviation and space technology has contributed to closer ties among the peoples of the world by inspiring their imagination, promoting commerce and encouraging travel.

To commemorate the historic achievements of the Wright brothers, the Congress, by a joint resolution of December 17, 1963 (77 Stat. 402, 36 U.S.C. 169), designated the seventeenth day of December of each year as Wright Brothers Day and requested the President to issue annually a proclamation inviting the people of the United States to observe that day with appropriate ceremonies and activities.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, do hereby invite the people of this Nation, and their local and national government officials, to observe Wright Brothers Day, December 17, 1975, with appropriate ceremonies and activities, both to recall the accomplishments of the Wright brothers and to provide a stimulus to aviation in this country and throughout the world.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of October, in the year of our Lord nineteen hundred seventy-five, and of the Independence of the United States of America the two hundredth.

Gerald R. Ford

[FR Doc.75-29254 Filed 10-28-75;10:34 am]

rules and regulations

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

[Amdt. 7]

PART 245—DETERMINING ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS AND FREE MILK IN SCHOOLS

The Food and Nutrition Service, U.S. Department of Agriculture, is amending the regulations governing the determining of eligibility for free and reduced price meals and free milk in schools to extend the time by which free and reduced price policy statements must have been approved by State agencies and Food and Nutrition Service Regional Offices (FNSROs).

Each year the Secretary issues income poverty guidelines which set forth income levels by family size for use by FNSROs and State agencies in determining eligibility for free and reduced price meals. State agenices and FNSROs are to prescribe and publicly announce by July 1, family size and income standards to be used by schools under their jurisdiction in determining eligibility for free and reduced price meals. Current regulations require the local school food authority's free and reduced price policy statement to be approved by the State agency or FNSRO by September 30.

Annually, the Department is advised by State agencies that problems continue to be encountered by school food authorities in obtaining approval by the September 30 date. Delays in submitting policy statements for approval arise from such actions as teachers' strikes, late openings of schools, board actions and budget approvals all of which require the immediate attention of local administrators.

In order to be responsive to the difficulties encountered by many school food authorities in obtaining approval by September 30, the date is being changed to October 15. Extension of the September 30 date will not diminish the Department's concern or the requirement that program benefits be made available to eligible children at the beginning of the school year, and that public announcement be made at that time.

Since this change makes the regulation more lenient, and in view of the desirability of having the change effective immediately, the Department believes that proposed rulemaking and public participation procedures are impracticable and unnecessary.

Accordingly, the regulations for Determining Eligibility for Free and Reduced Price Meals are hereby amended as follows:

§ 245.10 [Amended]

Section 245.10(d) is amended by deleting the date "September 30" and inserting the date "October 15" in lieu thereof.

Effective date. This amendment shall become effective as of October 1, 1975.

Dated: October 23, 1975.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.75-29031 Filed 10-28-75;8:45 am]

CHAPTER XI—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MISCELLANEOUS COMMODITIES), DEPARTMENT OF AGRICULTURE

[Amdt. 5]

PART 1207—POTATO RESEARCH AND PROMOTION PLAN

Nominations for Membership

This amendment advances the date for holding nomination meetings so that nominations for membership on the National Potato Promotion Board shall be submitted to the Secretary by February 1, instead of March 1.

Notice was published in the October 1, 1975, FEDERAL REGISTER (40 FR 45176) regarding the proposal to amend § 1207.503 *Nominations*. The amendment was directed by the Secretary and concurred in by the Executive Committee of the National Potato Promotion Board. The Board was established pursuant to the Potato Research and Promotion Plan (7 CFR Part 1207). The plan is effective under the Potato Research and Promotion Act (7 U.S.C. 2611-2627).

The notice afforded interested persons an opportunity to file written comments not later than October 14, 1975. None was filed.

Section 1207.503(a) now specifies that the Board will hold nomination meetings prior to March 1 of each year. Originally the plan called for the term of office to begin July 1. However, the beginning date was changed to April 1 so that new appointees could participate in the annual meeting held on the first Monday in April. This change in dates has occasionally resulted in insufficient time for adequate administrative review of nominations and selection of new members prior to the annual meeting. In order to correct this problem nominations shall be submitted to the Secretary by February 1.

After consideration of all relevant matters, including the proposal set forth in the notice, it is hereby found that this amendment will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) such a change was directed by the Secretary and concurred in by the Executive Committee of the National Potato Promotion Board; (2) information regarding this rule change was published in the FEDERAL REGISTER on October 1, 1975, and provided all interested persons with ample notice; and (3) compliance with this amendment will not require any special preparation on the part of the Potato Board which cannot be completed on or before the effective date hereof.

The amendment is as follows:

Revise § 1207.503(a) to read as follows:

§ 1207.503 Nominations.

(a) Pursuant to § 1207.322 of the plan, the Board shall hold or cause to be held a meeting or meetings of producers in the producing sections or States each year to nominate members for the Board. One individual shall be nominated for each position to become vacant. A list of nominees shall be submitted to the Secretary for his consideration by February 1 of each year.

* * * * *

(7 U.S.C. 2611-2627; 84 Stat 2041)

Dated: October 22, 1975, to become effective October 31, 1975.

DONALD E. WILKINSON,
Administrator.

[FR Doc.75-28952 Filed 10-28-75;8:45 am]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

Bond Redetermination Before Special Inquiry Officer

Reference is made to the Notice of Proposed Rule Making which was published in the FEDERAL REGISTER of August 28, 1975 (40 FR 39524) pursuant to section 553 of Title 5 of the United States Code (80 Stat. 383) and in which there was set forth the proposed amendment of 8 CFR 242.2(b) pertaining to bond redetermination before a special inquiry officer. The single representation which was received in response to the proposed rule of August 28, 1975 has been considered.

The proposed rule would permit an alien who cannot seek a bond redeter-

mination before a special inquiry officer within the region wherein the alien is physically present to seek such redetermination before any other special inquiry officer. It would also permit an alien already released who nevertheless wishes a redetermination before a special inquiry officer of the conditions of such release to have an opportunity to obtain a redetermination provided request for redetermination is made within seven days of the date of release. The proposed rule has been modified to make it clear that after the expiration of the seven-day period application by a released alien for bond redetermination could be made only to the district director with an appeal directly to the Board of Immigration Appeals. This would assure that where a change in circumstances occurs after the seven-day period, the possibility of relief would be available by application to the district director.

The proposed rule, as modified and as set forth below, is hereby adopted:

In § 242.2, paragraph (b) is amended by adding three new sentences between the existing third and fourth sentences, and by amending the existing ninth sentence. As amended, § 242.2(b) is revised to read as follows:

§ 242.2 Apprehension, custody, and detention.

* * * * *

(b) *Authority of special inquiry officers; appeals.* After an initial determination pursuant to paragraph (a) of this section, and at any time before a deportation order becomes administratively final, upon application by the respondent for release from custody or for amelioration of the conditions under which he may be released, a special inquiry officer may exercise the authority contained in section 242 of the Act to continue or detain a respondent in, or release him from, custody, and to determine whether a respondent shall be released under bond, and the amount thereof, if any. Application for the exercise of such authority may be made to any available special inquiry officer who is stationed at the Service office which has administrative jurisdiction over the proceeding under the order to show cause or who conducts hearings there. If no such special inquiry officer is available, application may be made to any available special inquiry officer stationed in the region wherein said Service office is located. If there is no available special inquiry officer in that region, the application may be made to any other special inquiry officer. However, if the respondent has been released from custody, such application must be made within seven days after the date of such release. Thereafter, application by a released respondent for modification of the terms of release may be made only to the district director. The determination of the special inquiry officer in respect to custody status or bond shall be entered on Form I-342 at the time such determination is made and shall be accompanied by a memorandum by the special inquiry officer as to the reasons for his determination. The special inquiry officer shall promptly notify the respondent and the Service of such determination. Consideration under this paragraph by the special inquiry officer of an application or request of an alien regarding custody or bond shall be separate and apart from any deportation hearing or proceeding under this part, and shall form no part of such hearing or proceeding or of the record thereof. The determination of the special inquiry officer as to custody status or bond may be based upon any information which is available to the special inquiry officer, or which is presented to him by the alien or the Service. The alien and the Service may appeal to the Board of Immigration Appeals from any such determination. After a deportation order becomes administratively final, or if recourse to the special inquiry officer is no longer available because of the expiration of the seven-day period aforementioned, the respondent may appeal directly to the Board from a determination by the district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1(a), except that no appeal shall be allowed when the Service notifies the alien that it is ready to execute the order of deportation and takes him into custody for that purpose. An appeal to the Board shall be taken from a determination by a special inquiry officer or from an appealable determination by a district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1(a) by filing a notice of appeal with the district director within 5 days after the date when written notification of the determination is served upon the respondent and the Service. Upon the filing of a notice of appeal, the district director shall immediately transmit to the Board all records and information pertaining to the determination from which the appeal has been taken. The filing of such an appeal shall not operate to delay compliance, during the pendency of the appeal, with the custody directive from which appeal is taken, or to stay the administrative proceeding or deportation.

* * * * *

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

Effective date. In accordance with the provisions of section 553 of Title 5 of the United States Code (80 Stat. 383), this order shall become effective on November 28, 1975.

Dated: October 22, 1975.

L. F. CHAPMAN, Jr.,
Commissioner of Immigration and Naturalization.

[FR Doc.75-28958 Filed 10-28-75;8:45 am]

Title 9—Animals and Animal Products

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

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

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Overtime, Night, and Holiday Inspection and Quarantine Activities at Border, Coastal, and Air Ports

Veterinary Services inspectors of the United States Department of Agriculture are charged with performing inspection duties relating to imports and exports at border ports, ocean ports, and airports. Such services may be performed outside the regular tour of duty of the inspector when requested by a person, firm, or corporation and the charge for such overtime is recoverable from those requesting the services. The following amendment increases the hourly rates for such services performed on a Sunday or holiday, or at any other time outside the regular tour of duty. These increases are commensurate with salary increases provided Federal employees in accordance with the Federal Pay Comparability Act of 1970 (Pub. L. 91-656) and Executive Order 11883, dated October 6, 1975.

Pursuant to the authority conferred by the Act of August 28, 1950 (64 Stat. 561; 7 U.S.C. 2260); the first sentence of § 97.1, Part 97, Title 9, Code of Federal Regulations, is revised to read as follows:

§ 97.1 Overtime work at laboratories, border ports, ocean ports, and airports.[1]

Any person, firm, or corporation having ownership, custody or control of animals, animal byproducts, or other commodities subject to inspection, laboratory testing, certification, or quarantine under this subchapter and subchapter G of this chapter, and who requires the services of an employee of Veterinary Services on a holiday or Sunday or at any other time outside the regular tour of duty of such employee, shall sufficiently in advance of the period of overtime or holiday or Sunday service request the Veterinary Services inspector in charge to furnish inspection, laboratory testing, certification or quarantine service during such overtime or holiday or Sunday period and shall pay the Administrator of the Animal and Plant Health Inspection Service at a rate of $18.92 per man hour per employee on a Sunday and at a rate of $12.80 per man hour per employee for holiday or any other period; except that for any services performed on a Sunday, or holiday, or at any time after 5 p.m. or before 8 a.m. on a week day, in connection with the arrival in or departure

[1] For designated ports of entry for certain animals, animal semen, poultry, and hatching eggs see 9 CFR 92.1 through 92.3; and for designated ports of entry for certain purebred animals see 9 CFR 151.1 through 151.3.

from the United States of a private aircraft or vessel, the total amount payable shall not exceed $25 for all inspectional services performed by the Customs Service, Immigration and Naturalization Service, Public Health Service, and the Department of Agriculture. * * *

* * * * *

(64 Stat. 561 (7 U.S.C. 2260))

Effective date. The foregoing amendment shall become effective October 12, 1975, when it shall supersede 9 CFR 97.1, effective October 13, 1974.

Determination of the hourly rate for overtime services and of the commuted traveltime allowances depends entirely upon facts within the knowledge of the Department of Agriculture. It is to the benefit of those who require such overtime services, as well as the public generally, that this amendment be made effective at the earliest practicable date. Accordingly, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedure on this amendment are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 21st day of October, 1975.

E. A. SCHILF,
Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.75-28956 Filed 10-28-75;8:45 am]

Title 12—Banks and Banking

CHAPTER I—COMPTROLLER OF THE CURRENCY, DEPARTMENT OF THE TREASURY

PART 9—FIDUCIARY POWER OF NATIONAL BANKS AND COLLECTIVE INVESTMENT FUNDS

Registration of Transfer Agents

The Comptroller of the Currency, under Sections 17, 17A and 23(a) of the Securities Exchange Act of 1934 ("Act"), has added to Part 9 a new § 9.20 and related Form TA-1 (12 CFR 9.20). Section 9.20 and Form TA-1 set forth the procedure for transfer agents for which the Comptroller is the appropriate regulatory agency, as defined in section 3(a)(34)(B)[1] of the Act, to register with the Comptroller.

Each federal bank regulatory agency *i.e.*, the Board of Governors of the Federal Reserve System, the Comptroller and the Federal Deposit Insurance Corporation) and the Securities and Exchange Commission ("SEC") is publishing, concurrently with the publication of this Section and registration form, a substantially similar rule and an identical registration form for transfer agents which are required to register with that agency.

On September 4, 1975, a proposal regarding the amendment of Part 9 by adding new § 9.20 and related Form TA-1 was published in the FEDERAL REGISTER (40 FR 40859). Interested persons were given until September 29, 1975, to submit written comments. Full and careful consideration was given to all written comments received. In view of these comments the Comptroller has adopted § 9.20 and related Form TA-1 with certain modifications from the form in which they were proposed.

BACKGROUND

As amended by the Securities Acts Amendments of 1975 (the "1975 Act"), which was signed into law on June 4, 1975,[2] the Act provides for Federal regulation of the securities handling process, including clearing agencies, depositories, and transfer agents, with a view to facilitating the establishment of a national system for the prompt and accurate clearance and settlement of securities transactions.

Pursuant to section 17A(c) of the Act, a transfer agent must register with the appropriate regulatory agency if it performs the function of a transfer agent with respect to any security registered under section 12 of the Act or which would be required to be registered except for the exemption from registration provided by subsection (g)(2)(B) or (g)(2)(G) of that section. Such registration must be effective on December 1, 1975[3]; otherwise, it shall be unlawful for any transfer agent subject to the registration requirements but not so registered, directly or indirectly, to make use of the mails or any means or instrumentality of interstate commerce to perform the function of a transfer agent with respect to such securities.

Under section 17A(c) of the Act, a transfer agent subject to the registration requirements registers by filing with the appropriate regulatory agency for such transfer agent an application for registration containing information and documents prescribed by the appropriate regulatory agency. Registration of a transfer agent becomes effective thirty days after receipt of the application for registration by the appropriate regulatory agency, unless the appropriate regulatory agency takes affirmative action to accelerate, deny or postpone registration in accordance with the provisions of section 17A(c) of the Act.

A transfer agent which is subject to the registration requirements and which is a national bank or a subsidiary of any such bank or a bank operating under the Code of Law for the District of Columbia or a subsidiary of any such bank registers with the Comptroller of the Currency. A transfer agent which is subject to the registration requirements and which is a State member bank of the Federal Reserve System or a subsidiary of any such bank or a bank holding company or a subsidiary of a bank holding company which is a bank[4] (other than a bank which registers with the Comptroller of the Currency or the Federal Deposit Insurance Corporation) registers with the Board of Governors of the Federal Reserve System. A transfer agent which is subject to the registration requirements and which is a State charterd bank insured by the Federal Deposit Insurance Corporation (other than a bank which is a member bank of the Federal Reserve System) or a subsidiary thereof registers with the Federal Deposit Insurance Corporation. All other transfer agents which are subject to the registration requirements register with the SEC.

DEFINITION OF THE TERM "TRANSFER AGENT"

The term "transfer agent" is defined in section 3(a)(25) of the Act to mean any person who engages on behalf of an issuer of securities or on behalf of itself as an issuer of securities in (i) countersigning such securities upon issuance, (ii) monitoring the issuance of such securities with a view to preventing unauthorized issuance, a function commonly performed by a person called a registrar, (iii) registering the transfer of such securities, (iv) exchanging or converting such securities, or (v) transferring record ownership of securities by bookkeeping entry without physical issuance of securities certificates. The term "transfer agent" does not include any insurance company or separate account which performs such functions solely with respect to variable annuity contracts or variable life policies which it issues or any registered clearing agency which performs such functions solely with respect to options contracts which it issues.

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[1] Section 3(a)(34)(B) of the Act defines the term "appropriate regulatory agency" when used with respect to a clearing agency or transfer agent to be:

"(i) the Comptroller of the Currency, in the case of a national bank or a bank operating under the Code of Law for the District of Columbia, or a subsidiary of any such bank;

(ii) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System, a subsidiary thereof, a bank holding company, or a subsidiary of a bank holding company which is a bank other than a bank specified in clause (i) or (iii) of this subparagraph;

(iii) the Federal Deposit Insurance Corporation, in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System), or a subsidiary thereof; and

(iv) the Commission in the case of all other clearing agencies and transfer agents."

[2] Pub. L. 94-29 (June 4, 1975).

[3] Section 17A(c) of the Act becomes effective on December 1, 1975. *See* section 31(a) of the 1975 Act.

[4] Section 3(a)(34) of the Act provides that for purposes of that section the terms "bank holding company" and "subsidiary of a bank holding company" have the meaning given them in section 2 of the Bank Holding Company Act of 1956.

Section 17A(c) of the Act precludes a person from performing any transfer agent function set forth in section 3(a)(25) of the Act with respect to any security registered under Section 12 of the Act or which would be required to be registered except for the exemption from registration provided by subsection (g)(2)(B) or (g)(2)(G) of that section, unless such person is registered as a transfer agent with the appropriate regulatory agency. Thus, an issuer who performs any one or more of the transfer agent functions specified in section 3(a)(25) of the Act with respect to such securities, even if it employs a transfer agent to perform other specified transfer agent functions, would be required to register under the Act. For example, an issuer who engages a transfer agent to countersign certificates, monitor the issuance of certificates, and prepare for the issuer information to enable the issuer to record the transfer of the securities on the corporate security holder records maintained by such issuer would also be required to register, since the issuer would be performing the function of registering the transfer of such securities on the corporate security holder records, a transfer agent function.

Section 9.20

Section 9.20 requires a transfer agent for which the Comptroller is the appropriate regulatory agency to apply for registration with the Comptroller on, and in accordance with the instructions contained in, Form TA–1. Registration shall become effective on the thirtieth day after filing unless the Comptroller takes affirmative action to accelerate, deny or postpone such registration. The filing of any amendment to an application for registration, which has not become effective, will postpone the effective date of the registration until the thirtieth day after the date on which the amendment was filed, unless the Comptroller takes affirmative action to accelerate, deny or postpone the registration in accordance with the Act.

Under section 17A(c)(2) of the Act, an application for registration filed by a transfer agent with the appropriate regulatory agency shall be effective thirty days after receipt of such application by such appropriate regulatory agency or within such shorter period of time as such appropriate regulatory agency may determine. Section 17A(c) of the Act, as made effective by section 31(a) of the 1975 Act, would make it unlawful on or after December 1, 1975, for any transfer agent, unless registered with the appropriate regulatory agency, to make use of the mails or any means or instrumentality of interstate commerce to perform the function of a transfer agent with respect to certain securities. In view of the fact that § 9.20 and related Form TA–1 have just been adopted and that there may be a brief delay in circulating Form TA–1 to all interested parties, the Comptroller has determined that to require transfer agents to file Form TA–1 before November 1, 1975, would not be practicable.

Accordingly, the Comptroller has determined to add a new paragraph (e) to § 9.20 which provides that for any properly completed application for registration on Form TA–1 which is filed on or before November 17, 1975, the registration shall become effective on December 1, 1975, unless affirmative action is taken to deny or postpone such registration in accordance with the provisions of the Act. In addition, any amendment to a Form TA–1, which properly completed registration form has been filed on or before November 17, 1975, shall not operate to postpone the December 1, 1975, effective date of the registration.

Section 9.20 as adopted also requires items 1–6 of Form TA–1 to be amended twenty-one calendar days following the date on which such information becomes inaccurate, misleading or incomplete. Information as to the issues which the registrant services must be updated within thirty calendar days following the close of any calendar year (beginning with the period from the date as of which registrant's application is prepared to December 31, 1976), during which the information has become inaccurate, misleading or incomplete.

Finally, § 9.20 provides that every registration or amendment filed pursuant thereto constitutes a "report" or "application" within the meaning of sections 17, 17A(c), and 32(a) of the Act.

Receipt of Form TA–1 by the Comptroller

Procedurally, with respect to an application for registration on Form TA–1 filed with the Comptroller pursuant to § 9.20, the Comptroller will acknowledge receipt of Form TA–1 and such registration will become effective either on the thirtieth day after filing or for applications filed on or before November 17, 1975, on December 1, 1975, unless the registrant receives notification that such registration has not become effective for any reason.

Form TA–1

Form TA–1 has been revised and reorganized to clarify its requirements and to simplify the registration process. It continues to be a common form for the registration of all transfer agents.

The Form is designed to identify, and to provide the Comptroller with basic information regarding, the size and nature of the registrant's transfer agent activities and to assist in the development of appropriate regulatory standards.

The information requested includes the name of the registrant, the address of the principal place of the registrant's business, the address of the principal office(s) for transfer agent activities, the name of the person in charge of the registrants' transfer agent activities, the registrant's form of organization, and the types of transfer agent activities engaged in by the registrant.

The Form has been revised to eliminate the requirement that the registrant disclose the identity of entities who act as transfer agent, co-transfer agent, registrar or co-registrar for issues with respect to which the registrant performs transfer agent functions. As revised, the Form requires the registrant to identify the issues for which it performs transfer agent functions and the capacities in which it acts for each issue and requires the registrant to update the information annually.

The Form has been clarified to indicate that a responsé to items on Form TA–1 should encompass all securities for which registrant performs a transfer agent function, except as otherwise specified in the Form.

The Form also requires information as to whether or not the registrant is audited, the registrant's insurance coverage in connection with its transfer agent activities, and the number of employees engaged in transfer agent activities.

The item pertaining to differences and out-of-proof conditions has been revised to clarify the information required.

Statutory Basis

Section 9.20 and related Form TA–1 are adopted under sections 17, 17A, and 23(a) of the Act. The Comptroller has adopted § 9.20 and Form TA–1 effective October 21, 1975, having found, under 5 U.S.C. 553(d), that such action is necessary to provide an orderly and timely procedure for the registration of transfer agents.

The Text of § 9.20

12 CFR Part 9 is amended by adding a new § 9.20 to read as follows:

§ 9.20 Registration of national bank transfer agents.

(a) An application for registration, pursuant to section 17A(c) of the Securities Exchange Act of 1934, as amended (the "Act"), of a transfer agent for which the Comptroller is the appropriate regulatory agency, as defined in section 3(a)(34)(B) of the Act, shall be filed with the Comptroller on Form TA–1, in accordance with the instructions contained therein and shall become effective on the thirtieth day following the date on which the application is filed, unless the Comptroller takes affirmative action to accelerate, deny or postpone such registration in accordance with the provisions of section 17A(c) of the Act.

(b) The filing of any amendment to an application for registration as a transfer agent pursuant to paragraph (a) of this section, which registration has not become effective, shall postpone the effective date of the registration until the thirtieth day following the date on which the amendment is filed, unless the Comptroller takes affirmative action to accelerate, deny or postpone the registration in accordance with the provisions of section 17A(c) of the Act.

(c) Within twenty-one calendar days following the date on which any information reported at items 1–6 of Form TA–1 becomes inaccurate, misleading or incomplete, the registrant shall file an amendment on Form TA–1 correcting the inaccurate, misleading or incomplete information. Within thirty calendar days following the close of any calendar year (beginning with the period from the date

as of which registrant's application is prepared to December 31, 1976) during which the information required by item 7 of Form TA–1 becomes inaccurate, misleading or incomplete, the registrant shall file an amendment on Form TA–1 correcting the inaccurate, misleading or incomplete information.

(d) Every registration and amendment filed pursuant to this section shall constitute a "report" or "application" within the meaning of sections 17, 17A(c) and 32(a) of the Act.

(e) Notwithstanding the provisions of paragraphs (a) and (b) of this section, if any application for registration, pursuant to section 17A(c) of the Act, is filed on or before November 17, 1975, the registration shall become effective on December 1, 1975, unless the Comptroller takes affirmative action to deny or postpone the registration in accordance with the provisions of section 17A(c) of the Act. Any amendments to an application for registration, which application has been filed on or before November 17, 1975, shall not operate to postpone the effective date of such registration as provided for in this paragraph (e).

The text of Form TA–1 is set forth below.

INSTRUCTIONS FOR USE OF FORM TA–1

UNIFORM FORM FOR REGISTRATION AS A TRANSFER AGENT AND FOR AMENDMENT TO REGISTRATION AS A TRANSFER AGENT PURSUANT TO SECTION 17A OF THE SECURITIES EXCHANGE ACT OF 1934 (THE "ACT")

I. *General Instructions for Preparing and Filing Form TA–1.*

1. Form TA–1 is to be used by transfer agents to apply for registration and to amend registration with the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation or the Securities and Exchange Commission. As used hereinafter, the term "Form TA–1" includes the form and any required schedules and attachments thereto.

2. Transfer agents should register as follows:

A. A national bank or a subsidiary of any such bank or a bank operating under the Code of Law for the District of Columbia or a subsidiary of any such bank registers with the *Comptroller of the Currency.*

B. A State member bank of the Federal Reserve System or a subsidiary of any such bank or a bank holding company or a subsidiary of a bank holding company which is a bank (other than a bank which is required to register with the Comptroller of the Currency or the Federal Deposit Insurance Corporation) registers with the *Board of Governors of the Federal Reserve System.*

C. A bank insured by the Federal Deposit Insurance Corporation (other than a bank which is a member bank of the Federal Reserve System) or a subsidiary thereof registers with the *Federal Deposit Insurance Corporation.*

D. All other transfer agents register with *the Securities and Exchange Commission.*

3. Transfer agents are required to file six completed copies of Form TA–1 with the appropriate regulatory agency, as described in instruction 2 immediately above, in accordance with the following instructions:

A. For transfer agents registering with the *Comptroller of the Currency,* six copies of Form TA–1 are to be filed with the Office of the Comptroller of the Currency, Administrator of National Banks, Washington, D.C. 20219.

B. For transfer agents registering with the *Board of Governors of the Federal Reserve System,* four copies of Form TA–1 are to be filed with the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, and two copies of Form TA–1 are to be filed with the Federal Reserve Bank of the District in which registrants' principal banking operations are conducted.

C. For transfer agents registering with the *Federal Deposit Insurance Corporation,* six copies of Form TA–1 are to be filed with the Federal Deposit Insurance Corporation, Washington, D.C. 20429.

D. For transfer agents registering with the *Securities and Exchange Commission,* six copies of Form TA–1 are to be filed with the Securities and Exchange Commission, Washington, D.C. 20549.

An exact copy of Form TA–1 should be retained for your records.

4. The date on which a Form TA–1 is received by the appropriate regulatory agency shall be the date of filing thereof if all the requirements with respect to filing have been complied with. A Form TA–1 which is not prepared and executed in compliance with applicable requirements may be returned as not acceptable for filing. However, acceptance of Form TA–1 shall not constitute any finding that it has been filed as required or that the information submitted is true, current, or complete.

5. Copies of Form TA–1 and Schedules A and B may be duplicated and are acceptable for filing provided an *original, manual signature* is affixed to the execution section of each copy. Except as set forth in instruction 20, Form TA–1 and Schedules A and B may be duplicated by any method producing legible copies, of type size identical to that in the Form, on good quality, unglazed, white paper, 8½ x 11 inches in size.

6. If Form TA–1 is filed by a corporation, it shall be signed in the name of the corporation by a principal officer duly authorized; if it is filed other than by a corporation, it shall be signed by a duly authorized principal of the organization filing the Form. As used in this Form, principal officer means the chairman of the board of directors, vice chairman of the board of directors, chairman of the executive committee, president, vice president, treasurer, secretary, comptroller, or any other person performing a similar function.

7. If the space provided for any answer on Form TA–1 is insufficient, the complete answer shall be prepared on Schedule A, which shall be attached to the Form.

8. Individuals' names, except for executing signatures, shall be given in full wherever required (last name, first name, middle name). The full middle name is required. Initials are not acceptable unless the individual legally has only an initial.

9. Unless the context otherwise requires, "registrant" means the entity on whose behalf Form TA–1 is filed, whether as a registration or as an amendment to a previously filed Form TA–1.

10. The information contained in Form TA–1 shall be amended upon the happening of certain events (see instruction 15 relating to amendments to Form TA–1).

11. Section 17(c)(1) of the Act, among other things, requires every transfer agent who files a registration form or amendment thereto with the Board of Governors of the Federal Reserve System, the Comptroller of the Currency or the Federal Deposit Insurance Corporation to file a copy of such registration form or amendment with the Securities and Exchange Commission. The Securities and Exchange Commission and the federal bank regulatory agencies have developed procedures pursuant to which the federal bank regulatory agencies will transmit a copy of any registration form or amendment filed with them to the Securities and Exchange Commission. Accordingly, such filings with the federal bank regulatory agencies by transfer agents for which the Securities and Exchange Commission is not the appropriate regulatory agency will constitute filings with the Securities and Exchange Commission for purposes of section 17(c)(1) of the Act.

12. The term "transfer agent" is defined in section 3(a)(25) of the Act to mean any person who engages on behalf of an issuer of securities or on behalf of itself as an issuer of securities in (i) countersigning such securities with a view to preventing unauthorcurities upon issuance, (ii) monitoring the issuance of such securities with a view to preventing unauthorized issuance, a function commonly performed by a person called a registrar, (iii) registering the transfer of such securities, (iv) exchanging or converting such securities, or (v) transferring record ownership of securities by bookkeeping entry without physical issuance of securities certificates. The term "transfer agent" does not include any insurance company or separate account which performs such functions solely with respect to variable annuity contracts or variable life policies which it issues or any registered clearing agency which performs such functions solely with respect to options contracts which it issues.

13. In response to any item (*except item 7(a)*) of Form TA–1 which requires information about "transfer agent activities," "transfer agent functions," "transfer agent operations," "securities" or "issues," the response should encompass all securities (*e.g.,* municipal securities, debt securities, preferred stock, common stock) for which registrant acts as transfer agent, as defined in section 3(a)(25) of the Act. The response should not be limited to securities registered under Section 12 of the Act or which would be required to be registered except for the exemption from registration provided by subsection (g)(2)(B) or (g)(2)(G) of section 12 of the Act. (See instruction 19 in responding to item 7 of Form TA–1.)

II. *Instructions Relating to Filing Form TA–1 as a Registration Form.*

14. If Form TA–1 is being filed as a registration form, all applicable items are required to be answered in full. If any item is not applicable, respond with "none" or "N/A" (not applicable), as appropriate.

III. *Instructions Relating to Filing Form TA–1 as an Amendment to a Registration Form.*

15. Within twenty-one calendar days following the date on which information reported at items 1–6 of Form TA–1 becomes inaccurate, incomplete or misleading, the registrant shall file an amendment on Form TA–1 correcting the inaccurate, incomplete or misleading information. Within thirty calendar days following the close of any calendar year (beginning with the period from the date as of which registrant's application is prepared to December 31, 1976), during which the information required by item 7 of Form TA–1 becomes inaccurate, incomplete or misleading, the registrant shall file an amendment on Form TA–1 correcting the inaccurate, incomplete or misleading information. The information reported at items 8–12 of Form TA–1 need not be amended after registration has become effective.

16. If an item is amended, the registrant must answer all other items on the page on which the amended item appears and must file six copies of the new page, each with an updated and properly completed execution page. Unless a schedule or an attachment is being amended, it is not necessary to file a new schedule or attachment pertaining to an unamended item on a page which is filed because such page contains an amended item.

IV. *Instructions as to SPECIFIC ITEMS on Form TA-1.*

17. Item 1.—Indicate the agency with which Form TA-1 is to be filed and whether the Form is filed as a registration or an amendment.

18. Item 2(a).—Include a street address; a post office box number alone is not acceptable.

19. Item 7(a).—At the option of registrant, the response to this item may be limited to "issues" or "securities" registered under section 12 of the Act or which would be required to be registered except for the exemption from registration provided by subsection (g)(2)(B) or (g)(2)(G) of section 12 of the Act.

V. *Instruction Relating to Schedule B of Form TA-1*

20. Six copies of a facsimile of a computer run providing the information called for by Schedule B may be attached if the facsimile is in the format called for by Schedule B, the type size is legible, and the facsimile is reduced to 8½ x 11 inches in size.

21. Schedule B shall be amended by filing six copies showing all additions and deletions and so designating them. Each copy shall be filed with an updated and properly completed execution page. Any change in the capacity in which the registrant acts for an issue shall be shown both as a deletion of all capacities previously set forth for the issue and as an addition showing the corrected capacity or capacities in which the registrant acts for the issue.

VI. *Notice.*

22. Under sections 17, 17A(c), and 23(a) of the Securities Exchange Act of 1934 and the rules and regulations thereunder, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation and the Securities and Exchange Commission ("the appropriate regulatory agency") are authorized to solicit the information required to be supplied by this Form from applicants for registration as a transfer agent. Disclosure to the appropriate regulatory agency of the information requested in Form TA-1 (except for the disclosure by an individual registrant of his social security number as an IRS Employee Identification Number, which is voluntary) is a prerequisite to the processing of applications for registration as a transfer agent. The information will be used for the principal purpose of determining whether the appropriate regulatory agency should allow an application for registration to become effective or should deny, accelerate or postpone registration to an applicant. Social security numbers, if furnished, will be used only to assist the appropriate regulatory agency in identifying applicants and, therefore, in promptly processing applications. Information supplied on this Form will be included routinely in the public files of the appropriate regulatory agency and will be available for inspection by any interested person.

FORM TA-1

UNIFORM FORM FOR REGISTRATION AS A TRANSFER AGENT AND FOR AMENDMENT TO REGISTRATION AS A TRANSFER AGENT PURSUANT TO SECTION 17A OF THE SECURITIES EXCHANGE ACT OF 1934

General.—Form TA-1 is to be used to register as a transfer agent and to amend registration as a transfer agent with the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation or the Securities and Exchange Commission pursuant to Section 17A of the Securities Exchange Act of 1934 (the "Act"). Read all instructions before preparing the Form. Please print or type all responses.

1. This form is filed with _____ as
(name of agency)

A registration ☐ An amendment ☐

2. (a) Exact name, principal business address, mailing address, if different, and telephone number of registrant:

Full name of registrant: _____

IRS Employee Identification No.: _____

Attention.—Intentional misstatements or omissions of fact constitute Federal Criminal Violations (See 18 U.S.C. 1001 and 15 U.S.C. 78ff(a)).

Execution.—The Registrant submitting this Form, any Schedules and any attachments and the person by whom it is executed represent hereby that all information contained herein is true, current and complete. It is understood that all required items, Schedules and attachments are integral parts of this Form and that the submission of any amendment to items 1–6 represents that all unamended parts of items 1–6 and any Schedules and any attachments to items 1–6 remain true, current and complete as previously submitted. An amendment to item 7 and Schedule B and any attachments thereto represents that all unamended parts of item 7 and Schedule B and any attachments thereto and items 1–6 and any Schedules and attachments thereto remain true, current and complete as previously submitted.

Registrant agrees and consents that the notice of any proceeding under section 17A of the Act involving registrant by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation or the Securities and Exchange Commission may be given by sending such notice by registered or certified mail or confirmed telegram to the registrant at the address of its principal office for transfer agent activities as given in response to item 2(b), "Attention Officer in Charge of Transfer Agent Activities." If more than one office is listed in item 2(b), the first office listed shall constitute the principal office for purposes of the aforementioned notice.

Dated the _____ day of _____ 19__.

_____
(Name of Transfer Agent)

_____
(Manual signature of Principal Officer or duly authorized Principal)

_____
(Title)

Name under which transfer agent activities are conducted, if different: _____

If name of registrant is hereby amended, state name under which registered previously: _____

If name under which transfer agent activities are conducted is hereby amended, state name given previously: _____

Address of registrant's principal place of business:

Number and street City State ZIP Code

Mailing address, if different:

Telephone number: (Area Code) (Telephone number)

2. (b) Address of principal office(s) for transfer agent activities:

Number and street	City	State	Zip Code
1.			
2.			
3.			

2.(c) Name, title and telephone number of person in charge of registrant's transfer agent activities:

Name:

Title:

Telephone number: (Area Code) (Telephone Number)

3.(a) If registrant is a corporation or a national association: Date on which registrant became incorporated or was organized and jurisdiction in which incorporated or under which it is organized:

Date: Jurisdiction:

(b) If registrant is not a corporation or a national association, describe on Schedule A the form of organization under which registrant conducts its business and identify the jurisdiction in which registrant is organized.

4. Does registrant have any arrangement with any person other than an issuer or a transfer agent, as defined in section 3(a)(25) of the Act, under which, with regard to registrant's transfer agent functions, such other person processes, keeps or maintains any records or accounts of registrant or issuers relating to transfer agent functions? Yes ☐ No ☐

If the answer is "yes," furnish on Schedule A, as to each such arrangement, the full name and principal business address of the other person and a brief summary of each such arrangement. As used in this question the term "person" includes any individual, corporation, partnership, association, joint stock company, business trust, unincorporated organization, or any other entity.

5. (a) Does registrant act as a transfer agent solely for its own securities? Yes ☐ No ☐

(b) Does registrant act as a transfer agent solely for securities of a person, as defined in item 4 of Form TA-1, that controls, or is controlled by, or is under common control with, the registrant? Yes ☐ No ☐

6. Check below types of business activities engaged in by registrant:

(a) Countersigning securities upon issuance ☐

(b) Monitoring the issuance of securities with a view to preventing unauthorized issuance, a function commonly performed by a person called a registrar ☐

(c) Registering the transfer of securities ☐

(d) Exchanging or converting securities ☐

(e) Transferring record ownership of securities by bookkeeping entry without physical issuance of securities certificates ☐

(f) Activities related to transfer agent functions:

(1) Acting as dividend disbursing agent or paying agent ☐

(2) Effecting dividend reinvestment ☐

(3) Processing stock subscriptions ☐

(4) Mailing of stockholders notices, proxies and other materials ☐

7. (a) In accordance with instruction 19, list on Schedule B issues serviced as transfer agent in the following capacities, as these terms are commonly used in the transfer agent industry: transfer agent, co-transfer agent, registrar or co-registrar.

(b) Does Schedule B include only securities registered pursuant to section 12 of the Act, or securities which would be required to be registered except for the exemption from registration contained in subsection (g)(2)(B) or (g)(2)(G) of section 12 of the Act? Yes ☐ No ☐

(c) State the total number of issues serviced as a transfer agent which are not set forth in Schedule B.

8. If registrant is not a bank insured by the Federal Deposit Insurance Corporation, please answer items (a) and (b) below:

(a) Are the registrant's transfer agent activities subject to regulation by any agency of a state or political subdivision? (If yes, specify name of agency). Yes ☐ No ☐

Name of State or political subdivision:

Name of agency:

(b) Have the registrant's transfer agent activities been the subject of periodic examinations by an agency of a state or political subdivision? (If yes, specify name of agency). Yes ☐ No ☐

Name of State or political subdivision:

Name of agency:

9. (a) Is registrant audited by an independent public accountant? Yes ☐ No ☐

(b) If registrant is audited by an independent public accountant, does the audit include a review of internal controls related to transfer agent activities? Yes ☐ No ☐

(c) Fiscal year of registrant: Mo.....day.....

10. (a) How many full-time and part-time employees does registrant have engaged in transfer agent activities?

1. Full-time

2. Part-time

(b) How many years has registrant performed transfer agent activities?

(c) Indicate the average monthly number of certificates registrant issued during each of the following calendar quarters: (Indicate by an asterisk (*) placed adjacent to the number reported whether any original issues occurred in any period requested below):

Period	*Average monthly number of certificates issued*
1. October 1, 1974 to December 31, 1974	
2. January 1, 1975 to March 31, 1975	
3. April 1, 1975 to June 30, 1975	
4. July 1, 1975 to September 30, 1975	

11. (a) With regard to transfer agent activities, provide the following information regarding the type of insurance carried or provided:

Type of Insurance	Yes	No	Amount of coverage (dollars)	Amount of deductible (dollars)
1. Blanket bond				
2. Fidelity				
3. Errors and omissions				
4. Mail policy				
5. Air courier				
6. Lost instrument				
7. Other insurance related solely to transfer agent activities (Please specify on Schedule A)				

(b) If registrant's transfer activities are not covered by any insurance, has provision been made for self-insurance? Yes ☐ No ☐

If yes, indicate on Schedule A the provisions made for self-insurance (e.g., accounting reserve or funded reserve) and the amount thereof.

12. (a) What are registrant's internal policies and procedures for reconciling differences (including clerical and posting errors and out-of-proof conditions) in its transfer agent operations? (Describe on Schedule A).

(b) Indicate, as of September 30, 1975, the number of issues, if any, out-of-proof beyond thirty calendar days, and for each issue, identify the issue and state the number and market value of the shares or debt securities by which the issue is out-of-proof. (Attach Schedule A).

An out-of-proof condition exists if the total number of all securities reflected in the stockholder or debt holder records differs from the total number of shares or debt securities issued and outstanding pursuant to corporate action.

SCHEDULE A OF FORM TA-1

1. Full name of Registrant exactly as stated in Item 2(a) of Form TA-1.

2. Item of Form (Identify)	Answer

SCHEDULE B List issues serviced as transfer agent, co-transfer agent, registrar or co-registrar. For each issue provide the following information: (See Instructions 19, 20 and 21 before completing this Schedule)

This is: A Registration Form__
An Amendment __

Name of Issuer	Issue	CUSIP Number If Applicable	Capacity or Capacities in which registrant acts for issue CHECK THE APPROPRIATE COLUMN				If this is an Amendment	
			Transfer Agent 1/	Co-transfer Agent 1/	Registrar 1/	Co-Registrar 1/	This is an addition to issues or capacities previously listed on Schedule B	This is a deletion of issues or capacities previously listed on Schedule B
							CHECK ONE	

1/ For purposes of this Schedule B, the terms transfer agent and co-transfer agent include the person performing similar functions with respect to debt securities and the terms registrar and co-registrar include the person performing similar functions with respect to debt securities.

COPIES OF FORM TA-1

Copies of Form TA-1 are available on request from the Comptroller of the Currency, Administrator of National Banks, Washington, D.C. 20219.

Effective date: October 21, 1975.

Dated: October 21, 1975.

[SEAL] JAMES E. SMITH,
Comptroller of the Currency, Administrator of National Banks.

[FR Doc.75-28902 Filed 10-28-75;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 75-SW-38]

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

Designation of Transition Area; Withdrawal of Final Rule

On September 10, 1975, Part 71 of the Federal Aviation Regulations was amended to include a 700-foot point-in-space transition area south of Galveston, Tex., at latitude 28°53'00" N., longitude 94°43'00" W.

In the establishment of this transition area, compliance with the provisions of Executive Order 10854 and coordination with the International Civil Aviation Organization (ICAO) were inadvertently omitted.

In consideration of the foregoing, notice is hereby given that the establishment contained in Airspace Docket No. 75-SW-38 (40 FR 41998) is withdrawn pending readvertisement at a later date.

The withdrawal of this rule is made under the authority of Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)).

Issued at Fort Worth, Tex., on October 14, 1975.

ALBERT H. THURBURN,
Acting Director, Southwest Region.

[FR Doc.28917 Filed 10-28-75;8:45 am]

Title 20—Employees' Benefits

CHAPTER II—RAILROAD RETIREMENT BOARD

PART ~~300~~ 330—DETERMINATION OF DAILY BENEFIT RATES

Employees' Daily Rates of Compensation

This document provides revisions of the Board's regulations with respect to the obtaining of employees' daily rates of compensation and the use of such rates in determining daily benefit rates.

Pursuant to the general authority contained in section 12 of the Act of June 25, 1938 (52 Stat. 1107, as amended; 45 U.S.C. 362), §§ 330.1, 330.4 and 330.5 of Part 330 (20 CFR 330.1, 330.4 and 330.5) of the regulations under such act are revised and § 330.6 is added to read as follows:

§ 330.1 Statutory provisions.

* * * The daily benefit rate with respect to any * * * employee for * * * [a] day of unemployment or sickness shall be in an amount equal to 60 per centum of the daily rate of compensation for the employee's last employment in which he engaged for an employer in the base year, but not less than $12.70: *Provided, however,* That for registration periods beginning after June 30, 1975, but before July 1, 1976, such amount shall not exceed $24 per day of such unemployment or sickness and that for registration periods beginning after June 30, 1976, such amount shall not exceed $25 per day of such unemployment or sickness. The daily rate of compensation referred to in this paragraph shall be determined by the Board on the basis of information furnished to the Board by the employee, his employer, or both. * * * (Section 2(a), Railroad Unemployment Insurance Act, as amended August 9, 1975.)

§ 330.4 Information furnished to the Board about daily rate of compensation.

Each employee applying for benefits shall be afforded an opportunity to furnish, on a pay rate report form provided by the Board, information to show the daily rate of his compensation for the last employment in which he engaged for an employer in the base year. Arrangements shall be made for employers to furnish information to Board officers with respect to pay rates. Such arrangements may include, but need not be limited to, (a) arranging for unemployment claims agents or other employer officials to verify or correct, to the extent practicable, employees' pay rate reports before such reports are forwarded to the

Board, (b) sending to the appropriate employers for verification or correction pay rate reports furnished by employees applying for benefits, and (c) arranging for employers to furnish information as to established rates of pay. For purposes of paragraph (a) of § 330.5, the Board shall compile a table of pay rate ranges by occupation by employer from information furnished by employers in verifying or correcting pay rate reports submitted by employees.

§ 330.5 Use of daily rate of compensation in determining daily benefit rate.

(a) *Initial determination.* The daily benefit rate shall be 60 percent of the employee's daily rate (up to $40.00 in base year 1974; up to $41.66 in later base years) of compensation for the last employment in which he engaged for an employer in the base year, but not less than $12.70. Pending submission of a pay rate report by the employee, the daily benefit rate shall be $12.70. The office processing the employee's application for benefits shall use the information furnished on a verified or corrected pay rate report or on an unverified and uncorrected pay rate report, provided there is information, including information supplied by employers, sufficient to give reasonable assurance of the correctness of a daily benefit rate based on such pay rate report. If the office processing the application for benefits of an employee whose pay rate report has not been verified or corrected does not have information sufficient to give reasonable assurance of the correctness of a daily benefit rate based on the report, the daily benefit rate shall be $12.70 until (1) the report is verified or corrected or (2) a period of 30 days has elapsed with no verification or correction of the report, whichever first occurs. After a period of 30 days has elapsed with no verification or correction of the report, the processing office shall assign a daily benefit rate based on pay rates supplied by the employer for other employees in the employee's occupation. In the case where the employer has not supplied a rate for the employee's occupation, the processing office shall assign a daily benefit rate based on rates reported for the employee's occupation by other employers. The processing office shall take appropriate follow-up action to secure verification or correction of the report.

(b) *Redetermination.* When an unverified and uncorrected pay rate report has been verified or corrected, appropriate redetermination of the daily benefit rate shall be made, and such redetermined benefit rate shall be applied to all of the employee's days of unemployment or sickness in the benefit year, provided, however, that with respect to registration periods beginning after June 30, 1975, and before July 1, 1976, the daily benefit rate (determined in the manner prescribed in paragraph (a) of this section) shall be 60 percent of the employee's last daily rate up to $40.00 of compensation in the base year but not less than $12.70, and provided further that with respect to registration periods beginning after June 30, 1976, the daily benefit rate shall be 60 percent of the employee's last daily rate up to $41.66 of compensation in the base year but not less than $12.70.

§ 330.6 Use of reports of daily rates of compensation included in annual reports of creditable compensation of employees.

Any employer, in making his annual report of the creditable compensation of employees may elect to include, in a format prescribed by the Board, reports of the last daily rates of compensation in the base year for one or more employees. Any such report shall be accepted by the Board without further verification for the purpose of determining an employee's daily benefit rate in the following benefit year.

Dated: October 21, 1975.

By Authority of the Board.

[SEAL] R. F. BUTLER.
Secretary of the Board.

[FR Doc.75-28911 Filed 10-28-75;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Dichlorvos

The Commissioner of Food and Drugs has evaluated a new animal drug application (49-032V) filed by the Shell Chemical Co., a Division of Shell Oil Co., Agricultural Division, 2401 Crow Canyon Rd., San Ramon, CA 94583, proposing an additional use for dichlorvos in swine feed as an aid to increase litter production efficiency. The application is approved, effective October 29, 1975.

The Commissioner is amending Part 558 to reflect this approval.

In accordance with § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of the safety and effectiveness of data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, Monday through Friday from 9 a.m. to 4 p.m., except on Federal legal holidays.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action would not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. Copies of the FDA environmental impact assessment are on file with the Hearing Clerk, Food and Drug Administration.

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 558 is amended in § 558.205 by revising paragraph (b) and amending paragraph (f)(1) and (2) and adding paragraph (f)(3), to read as follows:

§ 558.205 Dichlorvos.

* * * * *

(b) *Approvals.* Premix level of 9.6 percent granted to No. 011461 in § 510.660(c) of this chapter.

* * * * *

(f) * * *

(1) *Amount per ton.* Dichlorvos, 348 grams (0.0384 percent).

* * * * *

(2) *Amount per ton.* Dichlorvos, 479 grams (0.0528 percent).

* * * * *

(3) *Amount per ton.* Dichlorvos, 334-500 grams (0.0366-0.0550 percent).

(i) *Indications for use.* An aid in improving litter production efficiency by increasing pigs born alive, birth weights, survival to market, and rate of weight gain. Treatment also removes and controls mature, immature and/or fourth stage larvae of whipworm (*Trichuris suis*), nodular worm (*Oesophagostomum spp.*) large roundworm (*Ascaris suum*), and the thick stomach worm (*Ascarops strongylina*) occurring in the gastrointestinal tract of the sow or gilt.

(ii) *Limitations.* For pregnant swine; mix into a gestation feed to provide 1,000 milligrams per head daily during last 30 days of gestation.

Effective date. This amendment shall be effective October 29, 1975.

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

Dated: October 21, 1975.

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

[FR Doc.75-28929 Filed 10-28-75;8:45 am]

Title 24—Housing and Urban Development

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

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

CFR Correction

The following are corrections to errors made in Title 24 of the Code of Federal Regulations, Parts 0 to 499, revised as of April 1, 1975.

1. In § 207.1, appearing on page 339, paragraphs (e), (f), (g), (h), and (i) were inadvertently omitted. Paragraphs (e), (f), (g), (h), and (i) are reinstated to read as follows:

§ 207.1 Application, SAMA letter, commitments and required fees.

* * * * *

(e) *Inspection fee.* The firm commitment may provide for the payment of an inspection fee in an amount not to exceed $5 per thousand dollars of the commitment. If an inspection fee is required, it shall be paid for as follows:

(1) If the case involves the insurance of advances, it shall be paid at the time of initial endorsement.

(2) If the case involves insurance upon completion, it shall be paid prior to the date construction is begun.

(f) *Fees on increases*—(1) *Increase in firm commitment prior to endorsement.* An application, filed prior to initial endorsement (or prior to endorsement in a case involving insurance upon completion), for an increase in the amount of an outstanding firm commitment shall be accompanied by a combined additional application and commitment fee. This combined additional fee shall be in an amount which will aggregate $3 per thousand dollars of the amount of the requested increase. If an inspection fee was required in the original commitment, an additional inspection fee shall be paid in an amount computed at the same dollar rate per thousand dollars of the amount of increase in commitment as was used for the inspection fee required in the original commitment. When insurance of advances is involved, the additional inspection fee shall be paid at the time of initial endorsement. When insurance upon completion is involved, the additional inspection fee shall be paid prior to the date construction is begun or if construction has begun, it shall be paid with the application for increase.

(2) *Increase in mortgage between initial and final endorsement.* Upon an application, filed between initial and final endorsement, for an increase in the amount of the mortgage, either by amendment or by substitution of a new mortgage, a combined additional application and commitment fee shall accompany the application. This combined additional fee shall be in an amount which will aggregate $3 per thousand dollars of the amount of the increase requested. If an inspection fee was required in the original commitment, and additional inspection fee shall accompany the application in an amount not to exceed the $5 per thousand dollars of the amount of the increase requested.

(3) *Loan to cover operating losses.* In connection with a loan to cover operating losses occurring during the first 2 years following completion of the project, a combined application and commitment fee of $3 per thousand dollars of the amount of the loan applied for shall be submitted with the application for the commitment. No inspection fee shall be required.

(g) *Reopening of expired commitments.* An expired conditional or firm commitment may be reopened if a request for reopening is received by the Commissioner within 90 days of the expiration of the commitment. The reopening request shall be accompanied by a fee of 50 cents per thousand dollars of the amount of the expired commitment. If the reopening request is not received by the Commissioner within the required 90-day period, a new application, accompanied by the required application and commitment fee, must be submitted.

(h) *Transfer fee.* Upon application for approval of a transfer of physical assets or the substitution of mortgagors, a transfer fee of 50 cents per thousand dollars shall be paid on the original face amount of the mortgage in all cases, except that a transfer fee shall not be paid where both parties to the transfer transaction are nonprofit organizations.

(i) *Refund of fees.* If the amount of the commitment issued or increase in mortgage granted is less than the amount applied for, the Commissioner shall refund the excess amount of the application and commitment fees submitted by the applicant. If an application is rejected before it is assigned for processing, or in such other instances as the Commissioner may determine, the entire application and commitment fees or any portion thereof may be returned to the applicant. Commitment, inspection and reopening fees may be refunded, in whole or in part, if it is determined by the Commissioner that there is a lack of need for the housing or that the construction or financing of the project has been prevented because of condemnation proceedings or other legal action taken by a governmental body or public agency, or in such other instances as the Commissioner may determine. A transfer fee may be refunded only in such instances as the Commissioner may determine.

2. In § 213.3, appearing on page 374, paragraphs (c), (d), (e), (f), and (g) were inadvertently omitted. Paragraphs (c), (d), (e), (f), and (g) are reinstated to read as follows:

§ 213.3 Fees required by Commissioner.

* * * * *

(c) *Fees on increases*—(1) *Increase in firm commitment prior to endorsement.* An application, filed prior to initial endorsement (or prior to endorsement in a case involving insurance upon completion), for an increase in the amount of an outstanding firm commitment shall be accompanied by a combined additional application and commitment fee. The combined additional fee shall be in an amount which will aggregate $3 per thousand dollars of the amount of the requested increase. If an inspection fee was required in the original commitment, an additional inspection fee shall be paid in an amount computed at the same dollar rate per thousand dollars of the amount of increase in commitment as was used for the inspection fee required in the original commitment. When insurance of advances is involved, the additional inspection fee shall be paid at the time of initial endorsement. When insurance upon completion is involved, the additional inspection fee shall be paid prior to the date construction is begun or if construction has begun, it shall be paid with the application for increase.

(2) *Increase in mortgage between initial and final endorsement.* Upon an application, filed between initial and final endorsement, for an increase in the amount of the mortgage, either by endorsement or by substitution of a new mortgage, a combined additional application and commitment fee shall accompany the application. This combined additional fee shall be in an amount which will aggregate $3 per thousand dollars of the amount of the increase requested. If an inspection fee was required in the original commitment, an additional inspection fee shall accompany the application in an amount not to exceed $5 per thousand dollars of the amount of the increase requested.

(3) *Loan to cover operating losses.* In connection with a loan to cover operating losses occurring during the first 2 years following completion of the project, a combined application and commitment fee of $3 per thousand dollars of the amount of the loan applied for shall be submitted with the application for the commitment. No inspection fee shall be required.

(d) *Reopening of expired commitments.* An expired conditional or firm commitment may be reopened if a request for reopening is received by the Commissioner within 90 days of the expiration of the commitment. The reopening request shall be accompanied by a fee of 50 cents per thousand dollars of the amount of the expired commitment. If the reopening request is not received by the Commissioner within the required 90-day period, a new application, accompanied by the required application and commitment fee, must be submitted.

(e) *Inspection fee.* The firm commitment may provide for the payment of an inspection fee in an amount not to exceed $5 per thousand dollars of the commitment. If an inspection fee is required, it shall be paid as follows:

(1) If the case involves the insurance of advances, it shall be paid at the time of initial endorsement.

(2) If the case involves insurance upon completion, it shall be paid prior to the date construction is begun.

(f) *Transfer fee.* Upon application for approval of a case involving the transfer of physical assets or involving the substitution of mortgagors, a transfer fee of 50 cents per thousand dollars shall be paid on the original face amount of the mortgage.

(g) *Refund of fees.* If the amount of the commitment issued or increase in mortgage granted is less than the amount applied for, the Commissioner shall refund the excess amount of the application and commitment fees submitted by the applicant. If an application is rejected before it is assigned for processing, or in such other instances as the Commissioner may determine, the entire application and commitment fees or any portion thereof may be returned to the applicant. Commitment, inspection, and reopening fees may be refunded, in whole or in part, if it is determined by the Commissioner that there is a lack of need for the housing or that the construction or financing of the project has been prevented because of condemnation proceedings or other legal action taken by a governmental body or

public agency, or in such other instances as the Commissioner may determine. A transfer fee may be refunded only in such instances as the Commissioner may determine.

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 7385]

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

PART 301—PROCEDURE AND ADMINISTRATION

Coordination of United States and Guam Individual Income Taxes

By a notice of proposed rule making appearing in the FEDERAL REGISTER for November 20, 1974 (39 FR 40773), amendments were proposed to conform the Income Tax Regulations (26 CFR Part 1) and the Regulations on Procedure and Administration (26 CFR Part 301) to the amendments made to the Internal Revenue Code of 1954 by the Act of October 31, 1972 (Pub. L. 92-606, 86 Stat. 1494), relating to coordination of United States and Guam individual income taxes. After consideration of all such relevant matter as was presented by interested persons regarding the proposed rules, the amendment of the regulations as proposed is adopted by this document, subject to the changes indicated below, which may be summarized as follows.

Section 1.935-1(d), captioned *Special rules for estimated income tax*, has been amended to provide that the special rule under subparagraph (1) with respect to declarations of estimated income tax filed before the date first due by an individual applies as well with respect to joint declarations of estimated income tax. This change has been accomplished by transferring the rule to a new subparagraph (3) and making the necessary changes in language.

In view of the foregoing considerations, the amendment of the regulations as proposed is hereby adopted, subject to the following changes:

Section 1.935-1, as set forth in paragraph 7 of the notice of proposed rule making, is amended—

(1) by revising paragraph (d)(1) and the last sentence of paragraph (d)(2),

(2) By adding a new subparagraph (3) to paragraph (d),

(3) By renumbering subparagraphs (3), (4), and (5) of paragraph (d) as (4), (5), and (6), respectively, and

(4) By striking out "(d)(5)" each place it appears in examples (1), (2), and (3) under paragraph (e) and inserting in lieu thereof "(d)(6)".

These revised and added provisions read as set forth below.

(Secs. 7805 (68A Stat. 917; 26 U.S.C. 7805) and 7654(e) (86 Stat. 1496; 26 U.S.C. 7654(e)) of the Internal Revenue Code of 1954.)

DONALD C. ALEXANDER,
Commissioner.

Approved: October 18, 1975.

CHARLES M. WALKER,
Assistant Secretary of the Treasury.

Title 26 is amended as follows:

PARAGRAPH 1. Section 1.881 is amended by redesignating subsection (b) of section 881 as subsection (c), by adding a new subsection (b) to such section, and by revising the historical note, to read as follows:

§ 1.881 Statutory provisions; tax on income of foreign corporations not connected with United States business.

SEC. 881. *Tax on income of foreign corporations not connected with United States business.* * * *

(b) *Exception for Guam corporations.* For purposes of this section, the term "foreign corporation" does not include a corporation created or organized in Guam or under the law of Guam.

(c) *Doubling of tax.* For doubling of tax on corporations of certain foreign countries, see section 891.

[Sec. 881 as amended by sec. 104(a), Foreign Investors Tax Act 1966 (80 Stat. 1555); sec. 313 (a) and (c), Rev. Act 1971 (85 Stat. 526); sec. 1(e)(1), Act of Oct. 31, 1972 (Pub. Law 92-606, 86 Stat. 1497)]

PAR. 2. Section 1.881-1 is amended by revising paragraph (c) to read as follows:

§ 1.881-1 Manner of taxing foreign corporations.

* * * * *

(c) *Meaning of terms.* For the meaning of the term "engaged in trade or business within the United States", as used in section 881 and this section, see section 864(b) and the regulations thereunder. For determining when income, gain, or loss of a foreign corporation for a taxable year is effectively connected for that year with the conduct of a trade or business in the United States, see section 864(c), the regulations thereunder, and § 1.882-2. The term "foreign corporation" has the meaning assigned to it by section 7701(a) (3) and (5) and § 301.7701-5 of this chapter (Regulations on Procedure and Administration), except that, for purposes of section 881 and §1.881-2, in the case of taxable years beginning after December 31, 1971, the term "foreign corporation" does not include a corporation created or organized in Guam or under the law of Guam. Thus, for example, for such a taxable year the first sentence of paragraph (b)(1), and the second sentence of paragraph (b)(2), of this section do not apply to a Guamanian corporation.

* * * * *

PAR. 3. Section 1.931 is amended by revising subsection (c) of section 931 and the historical note to read as follows:

§ 1.931 Statutory provisions; income from sources within possessions of the United States.

SEC. 931. *Income from sources within possessions of the United States.* * * *

(c) *Definition.* For purposes of this section, the term "possession of the United States" does not include the Virgin Islands of the United States, and such term when used with respect to citizens of the United States does not include Puerto Rico or Guam.

[Sec. 931 as amended by sec. 107, Foreign Investors Tax Act 1966 (80 Stat. 1571); sec. 502(d), Rev. Act 1971 (85 Stat. 550); sec. 1(f)(1), Act of Oct. 31, 1972 (Pub. Law 92-606, 86 Stat. 1497)]

PAR. 4. Section 1.931-1 is amended by revising the heading and paragraph (a)(1) to read as follows:

§ 1.931-1 Citizens of the United States and domestic corporations deriving income from sources within a possession of the United States.

(a) *Definitions.* (1) As used in section 931 and this section, the term "possession of the United States" includes American Samoa, Guam, Johnston Island, Midway Islands, the Panama Canal Zone, Puerto Rico, and Wake Island. However, the term does not include (i) the Virgin Islands and (ii), when used with respect to citizens of the United States, the term does not include Puerto Rico or, in the case of taxable years beginning after December 31, 1972, Guam.

* * * * *

PAR. 5. Section 1.932 is amended by revising subsections (a) and (c) of section 932 and the historical note to read as follows:

§ 1.932 Statutory provisions; taxation of citizens of possessions of the United States.

SEC. 932. *Citizens of possessions of the United States*—(a) *General rule.* Any individual who is a citizen of any possession of the United States (but not otherwise a citizen of the United States) and who is not a resident of the United States shall be subject to taxation under this subtitle in the same manner and subject to the same conditions as in the case of a nonresident alien individual. This section shall have no application in the case of a citizen of Puerto Rico or Guam.

* * * * *

(c) *Guam.* For provisions relating to the individual income tax in the case of Guam, see sections 935 and 7654; see also sections 30 and 31 of the Act of August 1, 1950 (48 U.S.C., secs. 1421h and 1421i).

[Sec. 932 as amended by sec. 103(m), Foreign Investor Tax Act 1966 (80 Stat. 1554); sec. 1(f) (2) and (3), Act of Oct. 31, 1972 (Pub. Law 92-606, 86 Stat. 1497)]

PAR. 6. Section 1.932-1 is amended by revising paragraphs (a)(1) and (b) to read as follows:

§ 1.932-1 Status of citizens of United States possessions.

(a) *General rule*—(1) *Definition and treatment.* A citizen of a possession of

the United States (except Puerto Rico and, for taxable years beginning after December 31, 1972, Guam), who is not otherwise a citizen or resident of the United States, including only the States and the District of Columbia, is treated for the purpose of the taxes imposed by subtitle A of the Code (relating to income taxes) as if he were a nonresident alien individual. However, for purposes of the tax imposed on self-employment income by chapter 2 of the Code, the term "possession of the United States" as used in section 932 and the preceding sentence does not include American Samoa, Guam, or the Virgin Islands. See section 1402(a)(9). See subpart A (section 871 and following), part II, subchapter N, chapter 1 of the Code, and the regulations thereunder, for rules relating to imposition of tax on nonresident alien individuals. For Federal income tax purposes, a citizen of a possession of the United States who is not otherwise a citizen of the United States is a citizen of a possession of the United States who has not become a citizen of the United States by naturalization in a State, Territory, or the District of Columbia. The fixed or determinable annual or periodical income from sources within the United States of a citizen of a possession of the United States who is treated as if he were a nonresident alien individual is subject to withholding. See section 1441.

* * * * *

(b) *Nonapplication to citizen of Puerto Rico or Guam.* The provisions of section 932(a) and paragraph (a) of this section do not apply in the case of a citizen of Puerto Rico or, for taxable years beginning after December 31, 1972, a citizen of Guam. Thus, for example, any such citizen who is not a resident of the United States will not be treated by the United States as a nonresident alien individual for purposes of section 2(b)(3)(A) or (d), relating to definitions and special rules; section 4(d)(1), relating to taxpayers not eligible to use the optional tax tables; section 37(h), relating to denial of retirement income credit; section 116(d), relating to taxpayers ineligible for dividend exclusion; section 142(b)(1), relating to taxpayers ineligible for standard deduction; section 152(b)(3), relating to definition of "dependent"; section 402(a)(4), relating to distributions by the United States to nonresident aliens; section 545(d), relating to certain foreign corporations; section 565(e), relating to certain consent dividends; section 861(a)(1), relating to interest from sources within the United States; sections 871 to 877, relating to nonresident alien individuals; section 1303(b), relating to individuals not eligible for income averaging; section 1371(a)(3), relating to definition of small business corporation; section 1402(b), relating to definition of "self-employment income"; section 1441, relating to withholding of tax on nonresident aliens; section 3401(a), relating to definition of wages; section 6013(a)(1), relating to inability to make a joint return; section 6015 (b) and (i), relating to declaration of estimated income tax by nonresident alien individuals; section 6017, relating to self-employment tax returns; section 6042(b)(2), relating to returns regarding payments of dividends; section 6049(b)(2), relating to returns regarding payments of interest; section 6072(c), relating to time for filing returns of nonresident alien individuals; section 6091(b), relating to place for filing returns of nonresident aliens; and section 6096(a), relating to designation of tax payments to Presidential Election Campaign Fund. For other rules applicable to citizens of Puerto Rico, see §§ 1.1–1(b) and 1.933–1. For other rules applicable to citizens of Guam, see §§ 1.1–1(b) and 1.935–1 of this chapter (Income Tax Regulations) and § 301.7654–1 of this chapter (Regulations on Procedure and Administration).

PAR. 7. The following new sections are inserted immediately after § 1.934–1:

§ 1.935 Statutory provisions; coordination of United States and Guam individual income taxes.

SEC. 935. *Coordination of United States and Guam individual income taxes*—(a) *Application of section.* This section shall apply to any individual for the taxable year who—

(1) Is a resident of Guam,

(2) Is a citizen of Guam but not otherwise a citizen of the United States,

(3) Has income derived from Guam for the taxable year and is a citizen or resident of the United States, or

(4) Files a joint return for the taxable year with an individual who satisfies paragraph (1), (2), or (3) for the taxable year.

(b) *Filing requirement*—(1) *In general.* Each individual to whom this section applies for the taxable year shall file his income tax return for the taxable year—

(A) With the United States, if he is a resident of the United States,

(B) With Guam, if he is a resident of Guam, and

(C) If neither subparagraph (A) nor subparagraph (B) applies—

(i) With Guam, if he is a citizen of Guam but not otherwise a citizen of the United States, or

(ii) With the United States, if clause (i) does not apply.

(2) *Determination date.* For purposes of this section, determinations of residence and citizenship for the taxable year shall be made as of the close of the taxable year.

(3) *Special rule for joint returns.* In the case of a joint return, this subsection shall be applied on the basis of the residence and citizenship of the spouse who has the greater adjusted gross income (determined without regard to community property laws) for the taxable year.

(c) *Extent of income tax liability.* In the case of any individual to whom this section applies for the taxable year—

(1) For purposes of so much of this title (other than this section and section 7654) as relates to the taxes imposed by this chapter, the United States shall be treated as including Guam,

(2) For purposes of the Guam territorial income tax, Guam shall be treated as including the United States, and

(3) Such individual is hereby relieved of liability for income tax for such year to the jurisdiction (the United States or Guam) other than the jurisdiction with which he is required to file under subsection (b).

(d) *Special rules for estimated income tax.* If there is reason to believe that this section will apply to an individual for the taxable year, then—

(1) He shall file any declaration of estimated income tax (and all amendments thereto) with the jurisdiction with which he would be required to file a return for such year under subsection (b) if his taxable year closed on the date he is required to file such declaration,

(2) He is hereby relieved of any liability to file a declaration of estimated income tax (and amendments thereto) for such taxable year to the other jurisdiction, and

(3) His liability for underpayments of estimated income tax shall be to the jurisdiction with which he is required to file his return for the taxable year (determined under subsection (b)).

[Sec. 935 as added by sec. 1(a), Act of Oct. 31, 1972 (Pub. Law 92–606, 86 Stat. 1494)]

§ 1.935–1 Coordination of U.S. and Guam individual income taxes.

(a) *Application of section*—(1) *Scope.* Section 935 and this section set forth the special rules relating to the filing of income tax returns, income tax liabilities, and estimated income tax of individuals described in subparagraph (2) of this paragraph. For additional rules relating to the collection of income tax at source on the wages of certain individuals, the furnishing of certain information with the returns of certain individuals, and the covering over to the treasury of Guam of net collections of income taxes imposed on certain individuals, see section 7654 and § 301.7654–1 of this chapter (Regulations on Procedure and Administration).

(2) *Individuals covered.* This section shall apply for a taxable year to any individual who—

(i) Is a resident of Guam, whether or not he is a citizen of the United States,

(ii) Is a citizen of Guam but not otherwise a citizen of the United States,

(iii) Has income derived from Guam for the taxable year and is a citizen or resident of the United States, or

(iv) Files a joint return for the taxable year with any individual described in subdivision (i), (ii), or (iii) of this subparagraph.

(3) *Determination of residence and citizenship.* For purposes of this section, determinations of residence and citizenship for a taxable year shall be made (except as provided to the contrary in paragraph (d) (1) and (2) of this section) as of the close of the taxable year. A citizen of the United States is any individual who is a citizen within the meaning of paragraph (c) of § 1.1–1, except that the term does not include an individual who is a citizen of Guam but not otherwise a citizen of the United States. An individual who is a citizen of Guam but not otherwise a citizen of the United States is any individual who has become a citizen of the United States by birth or naturalization in Guam. Whether an individual is a resident of Guam or a resident of the United States shall generally be determined by applying to the facts and circumstances in each case the principles of §§ 1.871–2 through 1.871–5 relating to what constitutes residence or nonresidence, as the case may be, in the United States in the

case of an alien individual. However, for special rules for determining the residence for tax purposes of individuals under military or naval orders, see section 514 of the Soldiers' and Sailors' Civil Relief Act of 1940, 50 App. U.S.C. 574. The residence of an individual, and, therefore, the jurisdiction with which he is required to file an income tax return under paragraph (b) of this section, may change from year to year.

(b) *Filing requirement*—(1) *Tax Jurisdiction.* An individual described in paragraph (a)(2) of this section shall file his return of income tax for the taxable year—

(i) With the United States if he is a resident of the United States, whether or not he is a citizen of the United States,

(ii) With Guam if he is a resident of Guam, whether or not he is a citizen of Guam, or

(iii) If neither subdivision (i) nor (ii) of this subparagraph applies,

(A) With Guam if he is a citizen of Guam but not otherwise a citizen of the United States, as defined in paragraph (a)(3) of this section, or

(B) With the United States if he is a citizen of the United States, as defined in paragraph (a)(3) of this section.

Thus, for example, if a U.S. citizen employed by the United States in Guam becomes a resident of Guam for the taxable year, he must file his return of income tax for such year with Guam. The tax shown on the return shall be paid to the jurisdiction with which such return is required to be filed and shall be determined by taking into account any credit under section 31 for tax withheld by Guam or the United States on wages, any credit under section 6402(b) for an overpayment of income tax to Guam or the United States, and any payments under section 6315 of estimated income tax paid to Guam or the United States. See paragraph (a)(3) of this section for the rule that determinations of residence and citizenship are to be made as of the close of the taxable year.

(2) *Joint returns.* In the case of married persons, if one or both spouses is an individual described in paragraph (a)(2) of this section and they file a joint return of income tax, the spouses shall file their joint return with, and pay the tax due on such return to, the jurisdiction where the spouse who has the greater adjusted gross income for the taxable year would be required under subparagraph (1) of this paragraph to file his return if separate returns were filed. For this purpose, adjusted gross income of each spouse is determined under section 62 and the regulations thereunder but without regard to community property laws; and, if one of the spouses dies, the taxable year of the surviving spouse shall be treated as ending on the date of such death.

(3) *Place for filing returns*—(i) *U.S. returns.* A return required under this paragraph to be filed with the United States shall be filed in accordance with § 1.6091–2, except that such return of a citizen or resident of the United States who is described in § 301.7654–1(a)(2) of this chapter (Regulations on Procedure and Administration) shall be filed with the Internal Revenue Service Center, 11601 Roosevelt Boulevard, Philadelphia, Pennsylvania 19155.

(ii) *Guam returns.* A return required under this paragraph to be filed with Guam shall be filed with the Commissioner of Revenue and Taxation, Agana, Guam 96910.

(4) *Tax accounting standards.* A taxpayer who has filed his return with one of the jurisdictions named in subparagraph (1) of this paragraph for a prior taxable year and is required to file his return for a later taxable year with the other such jurisdiction may not, for such later taxable year, change his accounting period, method of accounting, or any election to which he is bound with respect to his reporting of taxable income to the first jurisdiction unless he obtains the consent of the second jurisdiction to make such change. However, such change will not be effective for returns filed thereafter with the first jurisdiction unless before such later date of filing he also obtains the consent of the first jurisdiction to make such change. Any request for consent to make a change pursuant to this subparagraph must be made to the office where the return is required to be filed under subparagraph (3) of this paragraph and in sufficient time to permit a copy of the consent to be attached to the return for the taxable year.

(c) *Extent of liability for income tax*—(1) *Extension of territory*—(i) *General rule.* With respect to an individual who, for a taxable year, is described in paragraph (a)(2) of this section—

(A) For purposes of so much of the Internal Revenue Code of 1954 as relates to the normal taxes and the surtaxes imposed by chapter 1 thereof, the United States shall be treated, in a geographical and governmental sense, as including Guam, and

(B) For purposes of the Guam Territorial income tax (48 U.S.C. 1421i), Guam shall be treated, in a geographical and governmental sense, as including the United States except that this subdivision shall not apply for purposes of this section, section 7651, and section 7654.

(ii) *Application of general rule.* (A) The significance of the application of the rule of subdivision (i) of this subparagraph will depend upon the facts and circumstances of the particular case. The rule will not be applied where its application would be manifestly inapplicable or incompatible with the intent thereof. Thus, the rule will not be applied for purposes of section 3401, relating to definition of wages. Also, the rule will not be applied in determining the sources of dividends and interest from a domestic corporation. For example, if less than 20 percent of a domestic corporation's gross income is from U.S. sources for the period described in section 861(a)(1)(B) and (2)(A), but more than 20 percent of its gross income is from U.S. and Guam sources taken together for such period, the dividends and interest derived from it will be treated as derived from sources without the United States. In addition, for purposes of section 1372(e)(4), relating to whether an election of a small business corporation has been terminated because it derived more than 80 percent of its gross receipts from sources outside the United States, gross receipts from sources within Guam will be treated as gross receipts from sources outside the United States. On the other hand, some of the conclusions which may be reached as a result of the application of subdivision (i) of this subparagraph to a U.S. taxpayer (that is, an individual described in paragraph (b)(1)(i) or (iii)(B) of this section) are as follows. A U.S. taxpayer may not claim a foreign tax credit based upon his income from sources within Guam. Income tax paid to Guam may be taken into account under sections 31, 6315, and 6402(b) as payments to the United States. For purposes of section 116(a), relating to the partial exclusion of dividends received by individuals, dividends paid to a U.S. taxpayer by a corporation created or organized in Guam or under the law of Guam will be treated as dividends paid by a domestic corporation. Taxes paid to Guam and otherwise satisfying the requirements of section 164(a) will be allowed as a deduction under that section, but income taxes paid to Guam will be disallowed as a deduction under section 275(a).

(B) If a U.S. taxpayer has a net operating loss carryback or carryover under section 172, a foreign tax credit carryback or carryover under section 904, an investment credit carryback or carryover under section 46, a capital loss carryover under section 1212, or a charitable contributions carryover under section 170, the United States will take such carryback or carryover into account for a taxable year for which the taxpayer's return is required to be filed with the United States, and make a refund to the extent required under section 6402, even though the return of the taxpayer for the taxable year (whether beginning on, before, or after December 31, 1972) giving rise to the carryback or carryover was required to be filed with Guam.

(C) For purposes of income averaging of a U.S. taxpayer under sections 1301 through 1305, the taxpayer will not be denied status as an "eligible individual" merely because he was during the base period defined in section 1302(c)(2) treated under section 932 as a nonresident alien individual because he was a citizen of Guam but not otherwise a citizen of the United States. See section 1303(b). Furthermore, in determining the base period of such a U.S. taxpayer under section 1302(c)(2), taxable years for which a return was required to be filed with Guam shall be taken into account.

(D) In applying the Guam Territorial income tax the converse of the preceding rules under this subdivision will apply. Thus, for example, income tax paid

to the United States may be taken into account under sections 31, 6315, and 6402(b) as payments to Guam. Moreover, a citizen of the United States (as defined in paragraph (a)(3) of this section) not a resident of Guam will not be treated as a nonresident alien individual for purposes of the Guam Territorial income tax. Thus, for example, a citizen of the United States (as so defined), or a resident of the United States, will not be treated as a nonresident alien individual for purposes of section 1371(a)(3) of the Guamanian Territorial income tax.

(2) *Liability to other jurisdiction*—(i) *Filing with Guam.* If for a taxable year an individual is required under paragraph (b)(1) of this section to file a return with Guam, he is relieved of liability to file an income tax return with, and to pay an income tax to, the United States for the taxable year.

(ii) *Filing with the United States.* If for a taxable year an individual is required under paragraph (b)(1) of this section to file a return with the United States, he is relieved of liability to file an income tax return with, and to pay an income tax to, Guam for the taxable year.

(d) *Special rules for estimated income tax*—(1) *Declaration of estimated income tax.* If, under all the facts and circumstances existing at the date an individual is required to file a declaration of estimated income tax, there is reason to believe that he will, for the taxable year, be an individual described in paragraph (a)(2) of this section, he must file his declaration of estimated income tax (and all amendments thereof) with the jurisdiction with which he would be required to file a return under paragraph (b)(1) of this section if his taxable year had closed on the date he is first required to file a declaration of estimated income tax for the taxable year. Except as provided in paragraph (6) of this section (relating to underpayments of estimated income tax), payments of estimated income tax shall be made to the jurisdiction with which he is required to file the declaration even though for the taxable year he is required under paragraph (b)(1) of this section to file his return with the other jurisdiction. In determining the amount of such estimated income tax, income tax paid to Guam may be taken into account under sections 31 and 6402(b) as payments to the United States, and vice versa. For rules relating to the determination of, and time for filing, declarations of estimated tax, see sections 6015 and 6073; for rules relating to the time for paying installments of the tax, see section 6153.

(2) *Joint declaration of estimated income tax.* In the case of married persons, if, under all the facts and circumstances existing at the date a spouse is required to file a declaration of estimated income tax, there is reason to believe that he will, for the taxable year, be an individual described in paragraph (a)(2) of this section and the spouses file a joint declaration of estimated income tax, the spouses must file their joint declaration of estimated income tax (and all amendments thereof) with the jurisdiction where the spouse who has the greater estimated adjusted gross income for the taxable year would be required under subparagraph (1) of this paragraph to file his declaration of estimated income tax if separate declarations were filed. For this purpose, estimated adjusted gross income of each spouse for the taxable year is determined without regard to community property laws. Except as provided in paragraph (6) of this section, payments of estimated income tax shall be made to the jurisdiction with which the spouses are required to file the joint declaration.

(3) *Early filing of declarations.* If the individual or spouses have in fact filed a declaration or joint declaration of estimated income tax earlier than the time he or they are first required to file the declaration and such declaration was not filed where it is required to be filed under paragraph (d)(1) or (2) of this section, as the case may be, of this paragraph, only subsequent amendments of the declaration are required to be filed pursuant to such paragraph (d)(1) or (2) of this section with the other jurisdiction and only subsequent installments of the estimated income tax are required to be paid to the other jurisdiction.

(4) *Place for filing declarations.* A declaration of estimated income tax required under subparagraph (1) of this paragraph to be filed with Guam, shall be filed as prescribed in paragraph (b)(3)(ii) of this section. A declaration of estimated income tax required under subparagraph (1) of this paragraph to be filed with the United States shall be filed at the place prescribed by § 1.6073–1(c).

(5) *Liability to other jurisdiction*—(i) *Filing with Guam.* If, for a taxable year, an individual is required under this paragraph to file a declaration of estimated income tax with Guam, he is relieved of liability to file a declaration of estimated income tax (and any amendments thereof) with, and to make payments of estimated income tax to, the United States for the taxable year.

(ii) Filing with the United States. If, for a taxable year, an individual is required under this paragraph to file a declaration of estimated income tax with the United States, he is relieved of liability to file a declaration of estimated income tax (and any amendments thereof) with, and to make payments of estimated income tax to, Guam for the taxable year.

(6) *Underpayments.* The liability of an individual described in paragraph (a)(2) of this section for underpayments of estimated income tax for a taxable year, as determined under section 6654 and the regulations thereunder, shall be to the jurisdiction with which he is required under paragraph (b) of this section to file his return for the taxable year.

(e) *Illustration.* The application of this section may be illustrated by the following examples:

Example (1). B, and individual, files returns on a calendar year basis. B is a resident of the United States at the time he is required to file his declaration of estimated income tax for 1974. If, under the facts and circumstances, B does not reasonably expect at the time he files his declaration of estimated income tax that he will be a resident of Guam at the close of 1974, he will not be subject to this section at the time of such filing. However, B subsequently receives Guam source income which necessitates an amendment of his declaration, and some time later in 1974 he becomes a resident of Guam for the remainder of the year. B is required under paragraph (d)(1) of this section to file his amended declaration with the United States and to make payments of the estimated tax to the United States. However, B is required to file his income tax return for 1974 with Guam and to make any underpayments of estimated tax to Guam, pursuant to paragraphs (b)(1) and (d)(6) of this section.

Example (2). C, an individual, files returns on a calendar year basis. On March 1, 1974, C is a resident of the United States, files his declaration of estimated income tax for 1974 with the United States, and pays his first installment of estimated tax to the United States. Prior to the date C would otherwise be required to file his declaration of estimated income tax for 1974 (April 15, 1974), C becomes a resident of Guam for the remainder of the year. C is required under paragraph (d)(1) of this section to make only his remaining payments of installments of estimated tax to Guam. C is also required to file his income tax return for 1974 with Guam and to make any underpayments of estimated tax to Guam, pursuant to paragraphs (b)(1) and (d)(6) of this section.

Example (3). D, an individual, files returns on a calendar year basis. On August 1, 1974, D ceases to be a resident of the United States for the year and becomes a resident of Guam for the remainder of the year. D is first required to file a declaration of estimated income tax for 1974 on September 15, 1974, because of his receipt of an extraordinary item of income after June 15, 1974. D is required under paragraph (d)(1) of this section to file his declaration with Guam and to make payments of the estimated tax to Guam. D is also required to file his income tax return for 1974 with Guam and to make any underpayments of estimated tax to Guam, pursuant to paragraphs (b)(1) and (d)(6) of this section.

(f) *Effective date.* This section shall apply for taxable years beginning after December 31, 1972.

PAR. 8. Section 1.1441–1 is revised to read as follows:

§ 1.1441–1 Requirement for withholding of tax on nonresident aliens, foreign partnerships, and foreign corporations.

Except as otherwise provided in §§ 1.1441–3, 1.1441–4, and 1.1441–6, to the extent that the items specified in § 1.1441–2 constitute gross income from sources within the United States, withholding of a tax of 30 percent is required in the case of items of income specified in paragraphs (a) and (b) of § 1.1441–2 when such income is paid to a nonresident alien individual, a foreign partnership, or a foreign corporation, except that with respect to payments made after March 4, 1964, withholding of a tax of 14 percent is required in the case of items of income specified in paragraph (c) of § 1.1441–2. The rate of 30 percent or 14 percent shall be reduced as may be provided by a treaty with any country.

See §§ 1.894–1 and 1.1441–6 relating to income affected by treaty. For purposes of this section, the term "nonresident alien individual" includes an alien resident of Puerto Rico. In the case of payments occurring after October 31, 1972, the term "foreign corporation" does not include a corporation created or organized in Guam or under the law of Guam.

PAR. 9. Section 1.1442 is amended by revising subsection (a) of section 1442, by adding a new subsection (c) to section 1442, and by revising the historical note, to read as follows:

§ 1.1442 Statutory provisions; withholding of tax on foreign corporations.

SEC. 1442. *Withholding of tax on foreign corporations*—(a) *General rule.* In the case of foreign corporations subject to taxation under this subtitle, there shall be deducted and withheld at the source in the same manner and on the same items of income as is provided in section 1441 or section 1451 a tax equal to 30 percent thereof; except that, in the case of interest described in section 1451 (relating to tax-free covenant bonds), the deduction and withholding shall be at the rate specified therein. For purposes of the preceding sentence, the references in section 1441(b) to sections 871(a)(1) (C) and (D) shall be treated as referring to sections 881(a) (3) and (4), the reference in section 1441(c)(1) to section 871(b)(2) shall be treated as referring to section 842 or section 882(a)(2), as the case may be, the reference in section 1441(c)(5) to section 871(a)(1) (D) shall be treated as referring to section 881(a)(4), and the reference in section 1441 (c)(8) to section 871(a)(1)(C) shall be treated as referring to section 881(a)(3).

* * * * *

(c) *Exception for Guam corporations.* For purposes of this section, the term "foreign corporation" does not include a corporation created or organized in Guam or under the law of Guam.

[Sec. 1442 as amended by sec. 104(c), Foreign Investors Tax Act 1966 (80 Stat. 1557); sec. 313(e), Rev. Act 1971 (85 Stat. 528); sec. 1 (e)(2), Act of Oct. 31, 1972 (Pub. Law 92–606, 86 Stat. 1497)]

PAR. 10. Section 1.6091–1 is amended by adding a new subparagraph to paragraph (b), as follows:

§ 1.6091–1 Place for filing returns or other documents.

* * * * *

(b) *Place for filing certain information returns.* * * *

(16) For the place for filing information returns on Form 5074 with respect to the allocation of individual income tax to Guam, see paragraph (b)(3) of § 1.935–1 and paragraph (d) of § 301.7654–1 of this chapter (Regulations on Procedure and Administration).

PAR. 11. Section 1.6091–4 is amended by adding a new paragraph, as follows:

§ 1.6091–4 Exceptional cases.

* * * * *

(c) *Residents of Guam.* Income tax returns of an individual citizen of the United States who is a resident of Guam shall be filed with Guam, as provided in paragraph (b)(1) of § 1.935–1.

PAR. 12. The following new sections are inserted immediately after § 301.6685–1:

§ 301.6688 Statutory provisions; assessable penalties with respect to information required to be furnished under section 7654.

SEC. 6688. *Assessable penalties with respect to information required to be furnished under section 7654.* In addition to any criminal penalty provided by law, any person described in section 7654(a) who is required by regulations prescribed under section 7654 to furnish information and who fails to comply with such requirement at the time prescribed by such regulations unless it is shown that such failure is due to reasonable cause and not to willful neglect, shall pay (upon notice and demand by the Secretary or his delegate and in the same manner as tax) a penalty of $100 for each such failure.

[Sec. 6688 as added by sec. 1(c), Act of Oct. 31, 1972 (Pub. Law 92-606, 86 Stat. 1496); as amended by sec. 1016(b)(4), Employee Retirement Income Security Act 1974 (88 Stat. 932)]

§ 301.6688–1 Assessable penalties with respect to information required to be furnished under section 7654 on allocation of tax to Guam or the United States.

(a) *In general.* Each individual to whom paragraph (a)(2) of § 301.7654–1 applies for a taxable year who fails to file for such year the information return required by paragraph (d) of such section within the time prescribed therein, or who files such a return but does not show the information required thereon, shall, in addition to any criminal penalty provided by law, pay a penalty of $100 for each such failure.

(b) *Manner of payment.* The penalty set forth in paragraph (a) of this section shall be paid in the same manner as tax upon the issuance of a notice and demand therefor.

(c) *Reasonable cause.* The penalty set forth in paragraph (a) of this section shall not apply if it is established, to the satisfaction of the district director (or of the Commissioner of Revenue and Taxation of Guam if the individual was required to file his return of income tax for the taxable year with Guam) that the failure to file the information return or furnish the information within the prescribed time was due to reasonable cause and not to willful neglect. An individual who wishes to avoid the penalty must make an affirmative showing of all facts alleged as a reasonable cause for his failure to file the information return on time, or furnish the information on time, in the form of a written statement containing a declaration that it is made under penalties of perjury. Such statement must be filed with the district director (or with the Commissioner of Revenue and Taxation, Agana, Guam 96910, if the individual was required to file his return of income tax for the taxable year with Guam). In determining whether there was reasonable cause for failure to furnish the required information, account will be taken of the fact that the individual was unable to furnish the required information in spite of the exercise of ordinary business care and prudence in his effort to furnish the information. An individual will be considered to have exercised ordinary business care and prudence in his effort to furnish the required information if he made reasonable efforts to furnish the information but was unable to do so because of a lack of sufficient facts on which to make a proper determination. See paragraph (b) of § 1.935–1 of this chapter (Income Tax Regulations) for the rules which specify where returns of income tax must be filed for the taxable year by individuals to whom this section applies.

(d) *Effective date.* This section shall apply for taxable years beginning after December 31, 1972.

PAR. 13. Section 301.7654 is amended to read as follows:

§ 301.7654 Statutory provisions; coordination of United States and Guam individual income taxes.

SEC. 7654. *Coordination of United States and Guam individual income taxes*—(a) *General rule.* The net collections of the income taxes imposed for each taxable year with respect to any individual to whom this subsection applies for such year shall be divided between the United States and Guam according to the following rules:

(1) Net collections attributable to United States source income shall be covered into the Treasury of the United States;

(2) Net collections attributable to Guam source income shall be covered into the treasury of Guam; and

(3) All other net collections of such taxes shall be covered into the treasury of the jurisdiction (either the United States or Guam) with which such individual is required by section 935(b) to file his return for such year.

This subsection applies to an individual for a taxable year if section 935 applies to such individual for such year and if such individual has (or, in the case of a joint return, such individual and his spouse have) (A) adjusted gross income of $50,000 or more and (B) gross income of $5,000 or more derived from sources within the jurisdiction (either the United States or Guam) with which the individual is not required under section 935(b) to file his return for the year.

(b) *Definitions and special rules.* For purposes of this section—

(1) *Net collections.* In determining net collections for a taxable year, appropriate adjustment shall be made for credits allowed against the tax liability for such year and refunds made of income taxes for such year.

(2) *Income taxes.* The term "income taxes" means—

(A) With respect to taxes imposed by the United States, the taxes imposed by chapter 1, and

(B) With respect to Guam, the Guam territorial income tax.

(3) *Source.* The determination of the source of income shall be based on the principles contained in part I of subchapter N of chapter 1 (section 861 and following).

(c) *Transfers.* The transfers of funds between the United States and Guam required by this section shall be made not less frequently than annually.

(d) *Military personnel in Guam.* In addition to any amount determined under subsection (a), the United States shall pay to Guam at such times and in such manner as determined by the Secretary or his delegate the amount of the taxes deducted and withheld by the United States under chapter 24 with respect to compensation paid to members of the Armed Forces who are stationed in Guam but who have no income tax liability to Guam with respect to such compensa-

tion by reason of the Soldiers and Sailors Civil Relief Act (50 App. U.S.C., sec. 501 et seq.).

(e) *Regulations.* The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this section and section 935, including (but not limited to)—

(1) Such regulations as are necessary to insure that the provisions of this title, as made applicable in Guam by section 31 of the Organic Act of Guam, apply in a manner which is consistent with this section and section 935, and

(2) Regulations prescribing the information which the individuals to whom section 935 may apply shall furnish to the Secretary or his delegate.

[Sec. 7654 as revised by sec. 1(b), Act of Oct. 31, 1972 (Pub. Law 92-606, 86 Stat. 1495)]

PAR. 14. The following new section is added immediately after § 301.7654:

§ 301.7654–1 Coordination of U.S. and Guam individual income taxes.

(a) *Application of section*—(1) *Scope.* Section 7654 and this section set forth the general procedures to be followed by the Government of the United States and the Government of Guam in the division between the two governments of revenue derived from collections of the income taxes imposed for any taxable year beginning after December 31, 1972, with respect to any individual described in subparagraph (2) of this paragraph and paragraph (e) of this section. To the extent that section 7654 and this section are inconsistent with the provisions of section 30 of the Organic Act of Guam (48 U.S.C. 1421h), relating to duties and taxes to be covered into the treasury of Guam and held in account for the Government of Guam, such section 30 is superseded.

(2) *Individuals covered.* Paragraph (b) of this section applies only to an individual who, for a taxable year, is described in paragraph (a)(2) of § 1.935–1 of this chapter (Income Tax Regulations) and has (or in the case of a joint return, such individual and his spouse have)—

(i) Adjusted gross income of $50,000 or more, and

(ii) Gross income of $5,000 or more from sources within the jurisdiction (either the United States or Guam) other than the jurisdiction with which the individual is required to file his income tax return under paragraph (b) of § 1.935–1 of this chapter.

For the determination of gross income and adjusted gross income see sections 61 and 62, and the regulations thereunder, or, when applicable, the corresponding provisions as made applicable in Guam by the Guam Territorial income tax (48 U.S.C. 1421i). For purposes of this subparagraph, gross income consisting of compensation for military or naval service shall be taken into account notwithstanding section 514 of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 App. U.S.C. 574). However, see paragraph (e) of this section.

(b) *Allocation of tax.* (1) Net collections of income taxes imposed for each taxable year beginning after December 31, 1972, with respect to each individual described in paragraph (a)(2) of this section for such year shall be divided between the United States and Guam by the Commissioner of Internal Revenue and the Commissioner of Revenue and Taxation of Guam as follows:

(i) Net collections attributable to income from sources within the United States shall be covered into the Treasury of the United States,

(ii) Net collections attributable to income from sources within Guam shall be covered into the treasury of Guam, and

(iii) Net collections not described in subdivision (i) or (ii) of this subparagraph (i.e., net collections attributable to income from sources other than within the United States or Guam) shall be covered into the treasury of the jurisdiction (either the United States or Guam) with which the individual is required to file his return under paragraph (b) of § 1.935–1 of this chapter for such year.

(2) The amount of tax of any individual for a taxable year which shall be allocated to Guam for purposes of determining the portion of the net collections from such individual which shall be covered into the treasury of Guam by the United States for such year shall be that amount which bears the same ratio to such amount of tax as the adjusted gross income of that individual for such year which is allocable to sources in Guam bears to the total adjusted gross income of such individual for such year. For purposes of such allocation by the United States, the adjusted gross income of the taxpayer shall be determined by taking into account any compensation of any member of the Armed Forces for services performed in Guam the withheld tax on which is paid into the treasury of Guam pursuant to paragraph (e) of this section. The amount of tax of any individual for any taxable year which shall be allocated to the United States for purposes of determining the portion of the net collections from such individual which shall be covered into the Treasury of the United States by Guam for such year shall be that amount which bears the same ratio to such amount of tax as the adjusted gross income of that individual for such year which is allocable to sources in the United States bears to the total adjusted gross income of such individual for such year.

(c) *Definitions and special rules.* For purposes of this section—

(1) *Net collections.* (i) In determining net collections for a taxable year, appropriate adjustment between the two jurisdictions shall be made on a proportionate basis for underpayments of income taxes for such taxable year, credits allowed against the income tax for such taxable year (other than the credit for taxes withheld under section 3402 on wages), and refunds made of income taxes paid with respect to such taxable year. Thus, if a net operating loss results in a carryback to an earlier taxable year which gives rise to a refund for that earlier year, an adjustment must be made based upon the proportion which the amount of tax covered by one jurisdiction into the treasury of the other jurisdiction for that earlier year bears to the total amount of tax paid for that earlier year, even though the loss may have resulted from activities in one jurisdiction and the income, against which the loss was offset, was earned in the other jurisdiction. Similar adjustments must be made for foreign tax credit carrybacks even though different jurisdictions are involved. If, for example, an individual pays income tax of $30,000 to the United States for 1974 and $10,000 of such tax is covered into the treasury of Guam, and if for 1975 such individual has a net operating loss attributable to a trade or business carried on in the United States which loss is carried back to 1974 and gives rise to a refund of $15,000 by the United States, Guam must cover into the Treasury of the United States the amount of $5,000 which is the adjustment based upon the refund ($15,000x$10,000/$30,000=$5,000).

(ii) Tax withheld from the compensation of any member of the Armed Forces described in paragraph (a)(2) of this section which is paid to Guam pursuant to section 7654(d) and paragraph (e) of this section shall be taken into account in determining the amount required to be covered into the treasury of Guam under paragraph (b)(1)(ii) of this section.

(iii) For purposes of this subparagraph, any underpayment of tax is treated as attributable on a pro rata basis to income from sources within the United States, Guam, and sources other than within the United States or Guam, respectively, and is divided between the United States and Guam under the rules in paragraph (b) of this section.

(2) *Income taxes.* The term "income taxes" means—

(i) With respect to taxes imposed by the United States, the income taxes imposed by chapter 1 of the Code, and

(ii) With respect to taxes imposed by Guam, the Guam Territorial income tax (48 U.S.C. 1421i).

(3) *Source rules.* The determination of the source of income shall be based on the principles contained in sections 861 through 863, and the regulations thereunder, or, when applicable, in those sections as made applicable in Guam by the Guam Territorial income tax. For such purposes the provisions of section 514 of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 App. U.S.C. 574) relating to the determination of the source of income of members of the Armed Forces shall not be taken into account. For purposes of this subparagraph, the provisions in section 935(c) treating Guam as part of the United States, and vice versa, do not apply. For definition of the terms "United States" and "Guam" (see section 7701(a)(9) of the Code and section 2 of the Organic Act of Guam (48 U.S.C. 1421).

(d) *Information return.* Each individual described in paragraph (a)(2) of this section for a taxable year who is required by paragraph (b)(1) of § 1.935–1 of this chapter to file his return of income for such year with the United States shall timely file a properly executed Form 5074 (Allocation of Individual Income Tax to Guam) by attaching such form to his income tax return. Each individual described in paragraph (a)(2) of this section for a taxable year who is required by paragraph (b)(1) of § 1.935–1 of this chapter to file his return of income for such year with Guam shall timely file such information as may be required by the Commissioner of Revenue and Taxation with respect to his income derived from sources within the United States. See section 6688 and § 301.6688–1 for the penalty for failure to comply with this paragraph.

(e) *Military personnel in Guam.* The Commissioner of Internal Revenue shall arrange to pay to Guam the amount of the taxes deducted and withheld by the United States under section 3402 from wages paid to members of the Armed Forces who are stationed in Guam but who have no income tax liability to Guam with respect to such wages by reason of section 514 of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 App. U.S.C. 574). Section 514 of that Act provides in effect that for purposes of the taxation of income by Guam a person shall not be deemed to have lost a residence or domicile in the United States solely by reason of being absent therefrom in compliance with military or naval orders and the compensation for military or naval service of such a person who is not a resident of, or domiciled in, Guam shall not be deemed income for services performed within, or from sources within, Guam. Any amount paid to Guam under this paragraph in respect of a member of the Armed Forces described in paragraph (a)(2) of this section shall be taken into account in determining the amount required to be covered into the treasury of Guam under paragraph (b)(1)(ii) of this section. For purposes of this paragraph, the term "Armed Forces of the United States" has the meaning provided by § 301.7701–8 of this chapter. This paragraph does not apply to wages for services performed in Guam by members of the Armed Forces of the United States which are not compensation for military or naval service. In determining the amount of tax to be covered into the treasury of Guam under this paragraph with respect to remuneration for services performed in Guam by members of the Armed Forces of the United States, the special procedure agreed upon with the Department of Defense in 1951 shall not apply to remuneration paid after December 31, 1974. Under that procedure the tax withheld under section 3402 upon such remuneration for services performed in Guam during April and October of each year was to be projected for the appropriate six-month period of which the base month is a part, thereby arriving at an estimated figure for semiannual withholding tax to be covered over.

(f) *Transfers of funds.* The transfers of funds between the United States and Guam required to effectuate the provisions of this section shall be made when convenient for the two governments, but not less frequently than once in each calendar year. In complying with paragraph (b) of this section, only net balances will be transferred between the two governments. Further, amounts transferred pursuant to paragraph (b) of this section may be determined on the basis of estimates rather than the actual amounts derived from information furnished by taxpayers, except that the net collections for 1973 and every third calendar year thereafter are to be transferred on the basis of the information furnished by taxpayers pursuant to paragraph (d) of this section. In order to facilitate the transfer of funds pursuant to this section, the Commissioner of Internal Revenue and the Commissioner of Revenue and Taxation of Guam shall exchange such information, including copies of income tax returns, as will ensure that the provisions of section 7654 and this section are being properly implemented.

PAR. 15. Section 301.7701 is amended by revising paragraphs (12)(B) and (32) of section 7701(a) and the historical note to read as follows:

§ 301.7701 Statutory provisions; definitions.

SEC. 7701. *Definitions*—(a) * * *

(12) *Delegate.* * * *

(B) *Performance of certain functions in Guam or American Samoa.* The term "delegate", in relation to the performance of functions in Guam or American Samoa with respect to the taxes imposed by chapters 1, 2, and 21, also includes any officer or employee of any other department or agency of the United States, or of any possession thereof, duly authorized by the Secretary (directly, or indirectly by one or more redelegations of authority) to perform such functions.

* * * * *

(32) *Cooperative bank.* The term "cooperative bank" means an institution without capital stock organized and operated for mutual purposes and without profit, which—

(A) Either—

(i) Is an insured institution within the meaning of section 401(a) of the National Housing Act (12 U.S.C., sec. 1724(a)), or

(ii) Is subject by law to supervision and examination by State or Federal authority having supervision over such institutions, and

(B) Meets the requirements of subparagraphs (B) and (C) of paragraph (19) of this subsection (relating to definition of domestic building and loan association).

In determining whether an institution meets the requirements referred to in subparagraph (B) of this paragraph, any reference to an association or to a domestic building and loan association contained in paragraph (19) shall be deemed to be a reference to such institution.

* * * * *

[Sec. 7701, as amended by sec. 22 (g) and (h), Alaska Omnibus Act (73 Stat. 146, 147); sec. 18 (i) and (j), Hawaii Omnibus Act (74 Stat. 416); sec 103(t), Social Security Amendments 1960 (74 Stat. 941); secs. 6(c) and 7(h), Rev. Act 1962 (76 Stat. 962, 968); sec. 5, Act of Oct. 23, 1962 (Pub. Law 87-870, 76 Stat. 1161); secs. 204(a)(3) and 234 (b)(3), Rev. Act 1964 (78 Stat. 36, 114); sec. 102(b)(5), Tax Adjustment Act 1966 (80 Stat. 64); sec. 103(l)(1), Foreign Investors Tax Act 1966 (80 Stat. 1554); sec. 103(e)(6), Revenue and Expenditures Control Act 1968 (82 Stat. 264); sec. 432 (c) and (d), Tax Reform Act 1969 (83 Stat. 622, 623); sec. 1(f)(4), Act of Oct. 31, 1972 (Pub. L. 92-606, 86 Stat. 1497)]

[FR Doc.75-28901 Filed 10-28-75;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 447-3]

PART 52—APPROVAL LAND PROMULGATION OF IMPLEMENTATION PLANS

Washington; Approval of Implementation Plan Revision

OPEN BURNING

On May 31, 1972 (37 FR 10842), pursuant to Section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator of the Environmental Protection Agency (EPA) approved, with specific exceptions, the State of Washington Air Quality Implementation Plan (SIP).

By this rulemaking the Administrator hereby approves the September 10, 1973 and May 23, 1975 submittals of the following revisions to the open burning portions of the State and local agency regulations contained in the SIP referred to above:

(1) Chapter 136, Laws of 1972, 1st ex. sess. (codified as RCW 70.94.740 through RCW 70.94.765),

(2) Chapter 193, Laws of 1973, 1st ex. sess. (amending RCW 70.94.011, 70.94.152, 70.94.205 and 70.94.334; repealing RCW 70.94.050 and RCW 70.94.520 through RCW 70.94.560; adding new sections to Chapter 70.94 RCW, codified as RCW 70.94.155, 70.94.654, 70.94.656, 70.94.770 through RCW 70.94.785),

(3) Washington Administrative Code (WAC) 18–12 amended and adopted on October 5, 1973,

(4) Regulation I of the Puget Sound Air Pollution Control Agency (PSAPCA), amended and adopted on June 20, 1974,

(5) Regulation II of the Northwest Air Pollution Authority (NWAPA), adopted on March 16, 1973,

(6) Regulation I of the Olympic Air Pollution Control Authority (OAPCA), amended and adopted on December 4, 1974.

(7) Regulation I of the Grant County Clean Air Authority (GCCAA), effective July 1, 1973,

(8) Regulation I of the Douglas County Air Pollution Control Commission (DCAPCC), effective July 1, 1972,

(9) Regulation I of the Spokane County Air Pollution Control Authority (SCAPCA), effective January 6, 1975,

(10) Regulation I of the Southwest Air Pollution Control Authority (SWAPCA),

(11) Regulation II of the Benton-Franklin-Walla Walla Counties Air Pol-

lution Control Authority, effective October 6, 1973, and

(12) Regulation I of the Yakima County Clean Air Authority (YCCAA), effective September 5, 1973.

On February 15, 1973, the State of Washington Department of Ecology (DOE) submitted for EPA's approval revisions to the State and local agency open burning regulations contained in the SIP. These revisions to the WAC include provisions which:

(1) Prohibit open fires during any stage of an air pollution episode,

(2) Prohibit open burning of certain materials (e.g. garbage, dead animals, rubber products, etc.),

(3) Set restrictions on residential open burning,

(4) Prohibit commercial open burning without a permit (including a provision for certification of alternate methods of disposal),

(5) Prohibit agricultural open burning without a permit (except for certain burning of less than one acre),

(6) Designate certain areas as no burn areas, and

(7) Establish certain other administrative provisions.

In April 1973, House Bill No. 47 was enacted by the Washington State Legislature authorizing various State and local agencies to establish a one-permit open burning system until such time as alternate technology is developed. On September 10, 1973, the State of Washington, after proper notice and public hearings, submitted several changes to the State and local regulations as revisions to the SIP. These changes to the regulations were designed to implement the new legal authority and superseded the revisions submitted on February 15, 1973. Public comment was invited on these revisions in the November 15, 1973 FEDERAL REGISTER (38 FR 31513). No comments were received during the 30-day comment period.

Following a final pre-publication review, the Administrator determined that certain provisions of the proposed revisions needed further clarification before a final decision regarding approval could be given. Subsequently, on September 20, 1974, the Regional Administrator of Region X sent a letter to Mr. John Biggs, Director of DOE, requesting such information and on November 5, 1974 (39 FR 39019), EPA announced that final approval of the proposal was being delayed pending a response from DOE.

The requested additional information submitted by DOE on May 23, 1975, in combination with an evaluation performed by EPA's Seattle Regional Office has resulted in the Administrator concluding that he should grant approval of the entire submittal of State and local agency regulations pertaining to open burning. A "Technical Support Document on the Evaluation of New Regulations Concerning Open Burning in the State of Washington" was prepared by a consultant to Region X, in June, 1975. This document evaluated the question of the stringency of the regulations, comparing new State and local regulations to those in the approved SIP and comparing new local regulations to new State regulations. The evaluation concluded for the most part that the revised open burning regulations adopted by DOE and the local agencies are generally more stringent in terms of protecting the environment than the regulations which are part of the approved SIP. The technical document is available for public inspection at the EPA Regional Office, 1200 Sixth Avenue, Seattle, Washington 98101 and at the Freedom of Information Center, EPA 401 M Street S.W., Washington, D.C. 20460.

The Administrator finds good cause for making this rulemaking immediately effective since the regulations being approved by the Administrator are currently being enforced by the State and local air pollution agencies and will pose no additional requirements.

This rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended. (40 U.S.C. 1857c-5).

Dated: October 22, 1975.

JOHN QUARLES,
Acting Administrator.

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart WW—Washington

1. In § 52.2470, paragraph (c) (2) is revised to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) Supplemental information was submitted on: * * *

(2) December 12, 1972, July 31, 1973, September 10, 1973, May 31, 1974, and May 23, 1975, by the State of Washington Department of Ecology.

[FR Doc.75-29046 Filed 10-28-75;8:45 am]

[FRL 426-3]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Review of New Sources and Modifications

On August 14, 1971 (36 FR 15486), the Administrator promulgated as 40 CFR Part 420, regulations for the preparation, adoption and submittal of State Implementation Plans (SIPs) under section 110 of the Clean Air Act, as amended. These were subsequently republished on November 25, 1971 (36 FR 22398) as 40 CFR Part 51.

Among the requirements of 40 CFR Part 51 was a provision (§ 51.18, *Review of new sources and modifications*), which required States to adopt procedures for the review of new or modified stationary sources. This section was revised on June 18, 1973 (38 FR 15834) to include new and modified indirect sources as well and required the State or local agency to provide the opportunity for public comment on the effects on ambient air quality prior to the approval or disapproval of the construction of new sources or the modification of existing sources.

The public comment provision in § 51.18 requires that information provided by the owner or operator and the State's or local agency's analysis of the effect of the proposal on air quality be made available for inspection by the public in the affected area. A notice by prominent advertisement in the affected area is required after which the interested public has a 30-day period in which to comment. The notice is also to be furnished to the Administrator through the appropriate regional office as well as to all State and local agencies having jurisdiction in the region where the new or modified source is to be located.

The Administrator has promulgated new source and modifications regulations which do not include the requirement to provide for a 30-day period for public comment as provided for in § 51.18. The States affected are: Arizona, California, Indiana, Michigan, and Nevada. The Administrator is taking this opportunity to correct the regulations in the implementation plans of these States by amending them to be consistent with § 51.18, paragraph (h).

For the affected States listed above, a new paragraph is added with provisions for delegating to State or local agencies the review requirements under Part 51. Another paragraph is added to emphasize that persons failing to comply with new source review requirements will be subject to enforcement action. These provisions are similar to those contained in the Agency's regulations for preventing significant deterioration (§ 52.21 of this chapter).

The Administrator hereby finds good cause for not subjecting these amendments to public comment and for making them effective immediately. Since the amendments (1) merely make the new source review regulations consistent with the requirements of 40 CFR 51.18, which has already been subject to public comment and (2) merely add administrative, procedural and clarifying language which does not change the substance of the regulation as it may effect air pollution sources, providing for public comments and delaying the effectiveness of the amendments would be unnecessary and impracticable.

(42 U.S.C. 1857c-5)

Date: October 22, 1975.

RUSSELL E. TRAIN,
Administrator.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is to be amended as follows:

Subpart D—Arizona

1. Section 52.129 is amended by adding paragraphs (c) (8), (d) (11), and paragraph (g) and revising paragraphs (c) (4) and (d) (4) as follows:

§ 52.129 Review of new sources and modifications.

* * * * *

(c) * * *

(4) (i) Within twenty (20) days after receipt of an application to construct, or any addition to such application, the Administrator shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of paragraph (c) (4) (ii) of this section, shall be the date on which all required information is received by the Administrator.

(ii) Within thirty (30) days after receipt of a complete application, the Administrator shall:

(*a*) Make a preliminary determination whether the source should be approved, approved with conditions, or disapproved.

(*b*) Make available in at least one location in each region in which the proposed source would be constructed, a copy of all materials submitted by the owner or operator, a copy of the Administrator's preliminary determination and a copy or summary of other materials, if any, considered by the Administrator in making his preliminary determination; and

(*c*) Notify the public, by prominent advertisement in a newspaper of general circulation in each region in which the proposed source would be constructed, of the opportunity for written public comment on the information submitted by the owner or operator and the Administrator's preliminary determination on the approvability of the source.

(iii) A copy of the notice required pursuant to this subparagraph shall be sent to the applicant and to state and local air pollution control agencies, having cognizance over the location where the source will be situated.

(iv) Public comments submitted in writing within thirty (30) days after the date such information is made available shall be considered by the Administrator in making his final decision on the application. No later than ten (10) days after the close of the public comment period, the applicant may submit a written response to any comment submitted by the public. The Administrator shall consider the applicant's response in making his final decision. All comments shall be made available for public inspection in at least one location in the region in which the source would be located.

(v) The Administrator shall take final action on an application within thirty (30) days after the close of the public comment period. The Administrator shall notify the applicant in writing of his approval, conditional approval, or denial of the application, and shall set forth his reasons for conditional approval or denial. Such notification shall be made available for public inspection in at least one location in the region in which the source would be located.

(vi) The Administrator may extend each of the time periods specified in paragraph (c) (4) (ii), (iv) or (v) of this section by no more than 30 days, or such other period as agreed to by the applicant and the Administrator.

* * * * *

(8) Any owner or operator who constructs, modifies, or operates a stationary source not in accordance with the application, as approved and conditioned by the Administrator, or any owner or operator of a stationary source subject to this paragraph who commences construction or modification without applying for and receiving approval hereunder, shall be subject to enforcement action under section 113 of the Act.

(d) * * *

(4) (i) Within twenty (20) days after receipt of an application to construct, or any addition to such application, the Administrator shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of paragraph (d) (4) (ii) of this section, shall be the date on which all required information is received by the Administrator.

(ii) Within thirty (30) days after receipt of a complete application, the Administrator shall:

(*a*) Make a preliminary determination whether the source should be approved, approved with conditions, or disapproved.

(*b*) Make available in at least one location in each region in which the proposed source would be constructed, a copy of all materials submitted by the owner or operator, a copy of the Administrator's preliminary determination and a copy or summary of other materials, if any, considered by the Administrator in making his preliminary determination; and

(*c*) Notify the public, by prominent advertisement in a newspaper of general circulation in each region in which the proposed source would be constructed, of the opportunity for written public comment on the information submitted by the owner or operator and the Administrator's preliminary determination on the approvability of the source.

(iii) A copy of the notice required pursuant to this subparagraph shall be sent to the applicant and to state and local air pollution control agencies, having cognizance over the location where the source will be situated.

(iv) Public comments submitted in writing within thirty (30) days after the date such information is made available shall be considered by the Administrator in making his final decision on the application. No later than ten (10) days after the close of the public comment period, the applicant may submit a written response to any comment submitted by the public. The Administrator shall consider the applicant's response in making his final decision. All comments shall be made available for public inspection in at least one location in the region in which the source would be located.

(v) The Administrator shall take final action on an application within thirty (30) days after the close of the public comment period. The Administrator shall notify the applicant in writing of his approval, conditional approval, or denial of the application, and shall set forth his reasons for conditional approval or denial. Such notification shall be made available for public inspection in at least one location in the region in which the source would be located.

(vi) The Administrator may extend each of the time periods specified in paragraph (d) (4) (ii), (iv) or (v) of this section by no more than 30 days, or such other period as agreed to by the applicant and the Administrator.

* * * * *

(11) Any owner or operator who constructs, modifies, or operates a stationary source not in accordance with the application, as approved and conditioned by the Administrator, or any owner or operator of a stationary source subject to this paragraph who commences construction or modification without applying for and receiving approval hereunder, shall be subject to enforcement action under section 113 of the Act.

* * * * *

(g) *Delegation of authority.* (1) The Administrator shall have the authority to delegate responsibility for implementing the procedures for conducting source review pursuant to this section in accordance with paragraphs (g) (2), (3), and (4) of this section.

(2) Where the Administrator delegates the responsibility for implementing the procedures for conducting source review pursuant to this section to any Agency, other than a Regional Office of the Environmental Protection Agency, a copy of the notice pursuant to paragraph (c) (4) (iii) and (d) (4) (iii) of this section shall be sent to the Administrator through the appropriate Regional Office.

(3) In accordance with Executive Order 11752, the Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be delegated, other than to a Regional Office of the Environmental Protection Agency, for new or modified sources which are owned or operated by the Federal government or for new or modified sources located on Federal lands; except that, with respect to the latter category, where new or modified sources are constructed or operated on Federal lands pursuant to leasing or other Federal agreements, the Federal Land Manager may at his discretion, to the extent permissible under applicable statutes and regulations, require the lessee or permittee to be subject to new source review requirements which have been delegated to a state or local agency pursuant to this paragraph.

(4) The Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be redelegated, other than to a Regional Office of the Environmental Protection Agency, for new or modified sources which are located in

Indian reservations except where the State has assumed jurisdiction over such land under other laws, in which case the Administrator may delegate his authority to the States in accordance with paragraphs (g) (2), (3), and (4) of this section.

Subpart F—California

2. Section 52.233 is amended by adding paragraphs (f)(11), (g)(8), and paragraph (j) and revising paragraphs (f)(4) and (g)(4) as follows:

§ 52.233 Review of new sources and modifications.

* * * * *

(f) * * *

(4)(i) Within twenty (20) days after receipt of an application to construct, or any addition to such application, the Administrator shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of paragraph (f)(4)(ii) of this section, shall be the date on which all required information is received by the Administrator.

(ii) Within thirty (30) days after receipt of a complete application, the Administrator shall:

(*a*) Make a preliminary determination whether the source should be approved, approved with conditions, or disapproved.

(*b*) Make available in at least one location in each region in which the proposed source would be constructed, a copy of all materials submitted by the owner or operator, a copy of the Administrator's preliminary determination and a copy or summary of other materials, if any, considered by the Administrator in making his preliminary determination; and

(*c*) Notify the public, by prominent advertisement in a newspaper of general circulation in each region in which the proposed source would be constructed, of the opportunity for written public comment on the information submitted by the owner or operator and the Administrator's preliminary determination on the approvability of the source.

(iii) A copy of the notice required pursuant to this subparagraph shall be sent to the applicant and to state and local air pollution control agencies, having cognizance over the location where the source will be situated.

(iv) Public comments submitted in writing within thirty (30) days after the date such information is made available shall be considered by the Administrator in making his final decision on the application. No later than ten (10) days after the close of the public comment period, the applicant may submit a written response to any comment submitted by the public. The Administrator shall consider the applicant's response in making his final decision. All comments shall be made available for public inspection in at least one location in the region in which the source would be located.

(v) The Administrator shall take final action on the application within thirty (30) days after the close of the public comment period. The Administrator shall notify the applicant in writing of his approval, conditional approval, or denial of the application, and shall set forth his reasons for conditional approval or denial. Such notification shall be made available for public inspection in at least one location in the region in which the source would be located.

(vi) The Administrator may extend each of the time periods specified in paragraph (f)(4)(ii), (iv) or (v) of this section by no more than 30 days, or such other period as agreed to by the applicant and the Administrator.

* * * * *

(11) Any owner or operator who constructs, modifies, or operates a stationary source not in accordance with the application, as approved and conditioned by the Administrator, or any owner or operator of a stationary source subject to this paragraph who commences construction or modification without applying for and receiving approval hereunder, shall be subject to enforcement action under section 113 of the Act.

(g) * * *

(4)(i) Within twenty (20) days after receipt of an application to construct, or any addition to such application, the Administrator shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of paragraph (g)(4)(ii) of this section, shall be the date on which all required information is received by the Administrator.

(ii) Within thirty (30) days after receipt of a complete application, the Administrator shall:

(*a*) Make a preliminary determination whether the source should be approved, approved with conditions, or disapproved.

(*b*) Make available in at least one location in each region in which the proposed source would be constructed, a copy of all materials submitted by the owner or operator, a copy of the Administrator's preliminary determination and a copy or summary of other materials, if any, considered by the Administrator in making his preliminary determination; and

(*c*) Notify the public, by prominent advertisement in a newspaper of general circulation in each region in which the proposed source would be constructed, of the opportunity for written public comment on the information submitted by the owner or operator and the Administrator's preliminary determination on the approvability of the source.

(iii) A copy of the notice required pursuant to this subparagraph shall be sent to the applicant and to state and local air pollution control agencies, having cognizance over the location where the source will be situated.

(iv) Public comments submitted in writing within thirty (30) days after the date such information is made available shall be considered by the Administrator in making his final decision on the application. No later than ten (10) days after the close of the public comment period, the applicant may submit a written response to any comment submitted by the public. The Administrator shall consider the applicant's response in making his final decision. All comments shall be made available for public inspection in at least one location in the region in which the source would be located.

(v) The Administrator shall take final action on an application within thirty (30) days after the close of the public comment period. The Administrator shall notify the applicant in writing of his approval, conditional approval, or denial of the application, and shall set forth his reasons for conditional approval or denial. Such notification shall be made available for public inspection in at least one location in the region in which the source would be located.

(vi) The Administrator may extend each of the time periods specified in paragraph (g)(4)(ii), (iv) or (v) of this section by no more than 30 days, or such other period as agreed to by the applicant and the Administrator.

* * * * *

(8) Any owner or operator who constructs, modifies, or operates a stationary source not in accordance with the application, as approved and conditioned by the Administrator, or any owner or operator of a stationary source subject to this paragraph who commences construction or modification without applying for and receiving approval hereunder, shall be subject to enforcement action under section 113 of the Act.

* * * * *

(j) *Delegation of authority.*

(1) The Administrator shall have the authority to delegate responsibility for implementing the procedures for conducting source review pursuant to this section in accordance with paragraphs (j)(2), (3), and (4) of this section.

(2) Where the Administrator delegates the responsibility for implementing the procedures for conducting source review pursuant to this section to any Agency, other than a Regional Office of the Environmental Protection Agency, a copy of the notice pursuant to paragraph (f)(4)(iii) and (g)(4)(iii) of this section shall be sent to the Administrator through the appropriate Regional Office.

(3) In accordance with Executive Order 11752, the Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be delegated, other than to a Regional Office of the Environmental Protection Agency, for new or modified sources which are owned or operated by the Federal government or for new or modified sources located on Federal lands; except that, with respect to the latter category, where new or modified sources are constructed or operated on Federal lands pursuant to leasing or other Federal agreements, the Federal Land Manager may at his discretion, to the extent permissible under applicable

statutes and regulations, require the lessee or permittee to be subject to new source review requirements which have been delegated to a state or local agency pursuant to this paragraph.

(4) The Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be redelegated, other than to a Regional Office of the Environmental Protection Agency, for new or modified sources which are located in Indian reservations except where the State has assumed jurisdiction over such land under other laws, in which case the Administrator may delegate his authority to the States in accordance with paragraphs (j) (2), (3), and (4) of this section.

Subpart P—Indiana

3. Section 52.780 is amended by adding paragraph (d)(11) and paragraph (g) and revising paragraph (d)(4) as follows:

§ 52.780 Review of new sources and modifications.

* * * * *

(d) * * *

(4)(i) Within twenty (20) days after receipt of an application to construct, or any addition to such application, the Administrator shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of paragraph (d)(4)(ii) of this section, shall be the date on which all required information is received by the Administrator.

(ii) Within thirty (30) days after receipt of a complete application, the Administrator shall:

(*a*) Make a preliminary determination whether the source should be approved, approved with conditions, or disapproved.

(*b*) Make available in at least one location in each region in which the proposed source would be constructed, a copy of all materials submitted by the owner or operator, a copy of the Administrator's preliminary determination and a copy or summary of other materials, if any, considered by the Administrator in making his preliminary determination; and

(*c*) Notify the public, by prominent advertisement in a newspaper of general circulation in each region in which the proposed source would be constructed, of the opportunity for written public comment on the information submitted by the owner or operator and the Administrator's preliminary determination on the approvability of the source.

(iii) A copy of the notice required pursuant to this subparagraph shall be sent to the applicant and to state and local air pollution control agencies, having cognizance over the location where the source will be situated.

(iv) Public comments submitted in writing within thirty (30) days after the date such information is made available shall be considered by the Administrator in making his final decision on the application. No later than ten (10) days after the close of the public comment period, the applicant may submit a written response to any comment submitted by the public. The Administrator shall consider the applicant's response in making his final decision. All comments shall be made available for public inspection in at least one location in the region in which the source would be located.

(v) The Administrator shall take final action on an application within thirty (30) days after the close of the public comment period. The Administrator shall notify the applicant in writing of his approval, conditional approval, or denial of the application, and shall set forth his reasons for conditional approval or denial. Such notification shall be made available for public inspection in at least one location in the region in which the source would be located.

(vi) The Administrator may extend each of the time periods specified in paragraph (d)(4)(ii), (iv) or (v) of this section by no more than 30 days, or such other period as agreed to buy the applicant and the Administrator.

* * * * *

(11) Any owner or operator who constructs, modifies, or operates a stationary source not in accordance with the application, as approved and conditioned by the Administrator, or any owner or operator of a stationary source subject to this paragraph who commences construction or modification without applying for and receiving approval hereunder, shall be subject to enforcement action under section 113 of the Act.

* * * * *

(g) *Delegation of authority.* (1) The Administrator shall have the authority to delegate responsibility for implementing the procedures for conducting source review pursuant to this section in accordance with subparagraphs (2), (3), and (4) of this paragraph.

(2) Where the Administrator delegates the responsibility for implementing the procedures for conducting source review pursuant to this section to any Agency, other than a Regional Office of the Environmental Protection Agency, a copy of the notice pursuant to paragraph (d)(4)(iii) of this section shall be sent to the Administrator through the appropriate Regional Office.

(3) In accordance with Executive Order 11752, the Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be delegated, other than to a Regional Office of the Environmental Protection Agency, for new or modified sources which are owned or operated by the Federal government or for new or modified sources located on Federal lands; except that, with respect to the latter category, where new or modified sources are constructed or operated on Federal lands pursuant to leasing or other Federal agreements, the Federal Land Manager may at his discretion, to the extent permissible under applicable statutes and regulations, require the lessee or permittee to be subject to new source review requirements which have been delegated to a state or local agency pursuant to this paragraph.

(4) The Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be redelegated, other than to a Regional Office of the Environmental Protection Agency, for new or modified sources which are located in Indian reservations except where the State has assumed jurisdiction over such land under other laws, in which case the Administrator may delegate his authority to the States in accordance with paragraphs (g) (2), (3), and (4) of this section.

Subpart X—Michigan

4. Section 52.1176 is amended by adding paragraph (b)(8) and paragraph (e) and by revising paragraph (b)(4) as follows:

§ 52.1176 Review of new sources and modifications.

* * * * *

(b) * * *

(4)(i) Within twenty (20) days after receipt of an application to construct, or any addition to such application, the Administrator shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of paragraph (b)(4)(ii) of this section, shall be the date on which all required information is received by the Administrator.

(ii) Within thirty (30) days after receipt of a complete application, the Administrator shall:

(*a*) Make a preliminary determination whether the source should be approved, approved with conditions, or disapproved.

(*b*) Make available in at least one location in each region in which the proposed source would be constructed, a copy of all materials submitted by the owner or operator, a copy of the Administrator's preliminary determination and a copy or summary of other materials, if any, considered by the Administrator in making his preliminary determination; and

(*c*) Notify the public, by prominent advertisement in a newspaper of general circulation in each region in which the proposed source would be constructed, of the opportunity for written public comment on the information submitted by the owner or operator and the Administrator's preliminary determination on the approvability of the source.

(iii) A copy of the notice required pursuant to this subparagraph shall be sent to the applicant and to state and local air pollution control agencies, having cognizance over the location where the source will be situated.

(iv) Public comments submitted in writing within thirty (30) days after the date such information is made available

shall be considered by the Administrator in making his final decision on the application. No later than ten (10) days after the close of the public comment period, the applicant may submit a written response to any comment submitted by the public. The Administrator shall consider the applicant's response in making his final decision. All comments shall be made available for public inspection in at least one location in the region in which the source would be located.

(v) The Administrator shall take final action on an application within thirty (30) days after the close of the public comment period. The Administrator shall notify the applicant in writing of his approval, conditional approval, or denial of the application, and shall set forth his reasons for conditional approval or denial. Such notification shall be made available for public inspection in at least one location in the region in which the source would be located.

(vi) The Administrator may extend each of the time periods specified in paragraph (b)(4) (ii), (iv) or (v) of this section by no more than 30 days, or such other period as agreed to by the applicant and the Administrator.

* * * * *

(8) Any owner or operator who constructs, modifies, or operates a stationary source not in accordance with the application, as approved and conditioned by the Administrator, or any owner or operator of a stationary source subject to this paragraph who commences construction or modification without applying for and receiving approval hereunder, shall be subject to enforcement action under section 113 of the Act.

* * * * *

(c) *Delegation of authority.* (1) The Administrator shall have the authority to delegate responsibility for implementing the procedures for conducting source review pursuant to this section in accordance with paragraphs (c) (2), (3), and (4) of this section.

(2) Where the Administrator delegates the responsibility for implementing the procedures for conducting source review pursuant to this section to any Agency, other than a Regional Office of the Environmental Protection Agency, a copy of the notice pursuant to paragraph (b)(4)(iii) of this section shall be sent to the Administrator through the appropriate Regional Office.

(3) In accordance with Executive Order 11752, the Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be delegated, other than to a Regional Office of the Environmental Protection Agency, for new or modified sources which are owned or operated by the Federal government or for new or modified sources located on Federal lands; except that, with respect to the latter category, where new or modified sources are constructed or operated on Federal lands pursuant to leasing or other Federal agreements, the Federal Land Manager may at his discretion, to the extent permissible under applicable statutes and regulations, require the lessee or permittee to be subject to new source review requirements which have been delegated to a state or local agency pursuant to this paragraph.

(4) The Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be redelegated, other than to a Regional Office of the Environmental Protection Agency, for new or modified sources which are located in Indian reservations except where the State has assumed jurisdiction over such land under other laws, in which case the Administrator may delegate his authority to the States in accordance with paragraphs (c) (2), (3), and (4) of this section.

Subpart DD—Nevada

5. Section 52.1478 is amended by adding paragraph (b)(7) and paragraph (c) and revising paragraph (b)(4) as follows:

§ 52.1478 Review of new sources and modifications.

* * * * *

(b) * * *

(4)(i) Within twenty (20) days after receipt of an application to construct, or any addition to such application, the Administrator shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of paragraph (b)(4)(ii) of this section, shall be the date on which all required information is received by the Administrator.

(ii) Within thirty (30) days after receipt of a complete application, the Administrator shall:

(*a*) Make a preliminary determination whether the source should be approved, approved with conditions, or disapproved.

(*b*) Make available in at least one location in each region in which the proposed source would be constructed, a copy of all materials submitted by the owner or operator, a copy of the Administrator's preliminary determination and a copy or summary of other materials, if any, considered by the Administrator in making his preliminary determination; and

(*c*) Notify the public, by prominent advertisement in a newspaper of general circulation in each region in which the proposed source would be constructed, of the opportunity for written public comment on the information submitted by the owner or operator and the Administrator's preliminary determination on the approvability of the source.

(iii) A copy of the notice required pursuant to this subparagraph shall be sent to the applicant and to state and local air pollution control agencies, having cognizance over the location where the source will be situated.

(iv) Public comments submitted in writing within thirty (30) days after the date such information is made available shall be considered by the Administrator in making his final decision on the application. No later than ten (10) days after the close of the public comment period, the applicant may submit a written response to any comment submitted by the public. The Administrator shall consider the applicant's response in making his final decision. All comments shall be made available for public inspection in at least one location in the region in which the source would be located.

(v) The Administrator shall take final action on an application within thirty (30) days after the close of the public comment period. The Administrator shall notify the applicant in writing of his approval, conditional approval, or denial of the application, and shall set forth his reasons for conditional approval or denial. Such notification shall be made available for public inspection in at least one location in the region in which the source would be located.

(vi) The Administrator may extend each of the time periods specified in paragraph (b)(4) (ii), (iv) or (v) of this section by no more than 30 days, or such other period as agreed to by the applicant and the Administrator.

* * * * *

(7) Any owner or operator who constructs, modifies, or operates a stationary source not in accordance with the application, as approved and conditioned by the Administrator, or any owner or operator of a stationary source subject to this paragraph who commences construction or modification without applying for and receiving approval hereunder, shall be subject to enforcement action under section 113 of the Act.

(c) *Delegation of Authority.* (1) The Administrator shall have the authority to delegate responsibility for implementing the procedures for conducting source review pursuant to this section in accordance with paragraphs (c) (2), (3), and (4) of this section.

(2) Where the Administrator delegates the responsibility for implementing the procedures for conducting source review pursuant to this section to any Agency, other than a Regional Office of the Environmental Protection Agency, a copy of the notice pursuant to paragraph (b)(4)(iii) of this section shall be sent to the Administrator through the appropriate Regional Office.

(3) In accordance with Executive Order 11752, the Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be delegated, other than to a Regional Office of the Environmental Protection Agency, for new or modified sources which are owned or operated by the Federal government or for new or modified sources located on Federal lands; except that, with respect to the latter category, where new or modified sources are constructed or operated on Federal lands pursuant to leasing or other Federal agreements, the Federal Land Manager may at his discretion, to

the extent permissible under applicable statutes and regulations, require the lessee or permittee to be subject to new source review requirements which have been delegated to a state or local agency pursuant to this paragraph.

(4) The Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be redelegated, other than to a Regional Office of the Environmental Protection Agency, for new or modified sources which are located in Indian reservations except where the State has assumed jurisdiction over such land under other laws, in which case the Administrator may delegate his authority to the States in accordance with paragraphs (c) (2), (3), and (4) of this section.

[FR Doc.75-29045 Filed 10-28-75;8:45 am]

Title 45—Public Welfare

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

PART 213—PRACTICE AND PROCEDURE FOR HEARINGS TO STATES ON CONFORMITY OF PUBLIC ASSISTANCE PLANS TO FEDERAL REQUIREMENTS

Notice of proposed rulemaking providing for pre-hearing discovery in hearings to States on conformity of public assistance plans to Federal requirements under 45 CFR Part 213 was published in the FEDERAL REGISTER on June 25, 1975 (40 FR 26684). Under the proposed regulation the full range of discovery provided in the Federal Rules of Civil Procedure would be available to parties designated in the Notice of Hearings, subject to the power of the Presiding Officer to limit such discovery to prevent undue delays in the conduct of the hearing.

We received responses to the Notice from three State welfare agencies, one county welfare department, and one State Attorney General's office. Three of the agencies supported the proposal. Others raised the following questions or objections regarding certain aspects.

1. Why should the Presiding Officer have the right to limit discovery proceedings.

According to the existing regulations, the Presiding Officer has the responsibility to control the course of the hearing. The right to limit and control the parameters of discovery is consistent with control of the hearing, and therefore no change in the final regulation was deemed appropriate.

2. To deny the Presiding Officer the power of subpoena is contradictory to the intent of the proposal.

In the absence of statutory authority for the Administrator to issue subpoenas, the regulation cannot so provide.

3. The sanctions available to the Presiding Officer could be applied in an arbitrary and capricious manner to the detriment of the State.

The sanctions can be applied to any party who refuses to cooperate, not just the State. However, it is assumed this would rarely be necessary. If applied in so arbitrary a manner as to make the decision arbitrary and capricious, such action could result in a reversal upon judicial review.

4. Since an official of DHEW, not an impartial third party, makes the final determination in the hearing, it cannot be argued that the present rules are unfair to the Department.

The purpose of this new regulation is to enable the parties to develop a more thorough and complete administrative record, thus assuring that the Administrator will be able to render an impartial decision based on all the facts.

The basis for this regulation is the Department's belief that all parties to an administrative hearing should have ample opportunity to apprise themselves of all relevant and unprivileged documents pertinent to the issues in question.

Under current rules, States involved in hearings under 45 CFR Part 213 may make a request for documents under the Freedom of Information Act, 5 USC Section 552. The Department has no comparable opportunity to conduct discovery against the State except in those unusual circumstances where the State involved in the hearing has a freedom of information law as broad as the Federal Act. This disparity in the opportunity of the parties to acquaint themselves with relevant information possessed by the other party prior to the hearing can hinder full development of all the issues and does not accord to both parties equally the opportunity to avoid surprise during the course of the hearing.

Accordingly, after consideration of all comments, the proposed regulations are hereby adopted.

Part 213, Chapter II, Title 45 of the Code of Federal Regulations is amended by revising § 213.22 and adding a new § 213.23a, as set forth below:

§ 213.22 Authority of presiding officer.

(a) The presiding officer shall have the duty to conduct a fair hearing, to avoid delay, maintain order, and make a record of the proceedings. He shall have all powers necessary to accomplish these ends, including, but not limited to, the power to:

(1) Change the date, time, and place of the hearing, upon due notice to the parties. This includes the power to continue the hearing in whole or in part. In hearings pursuant to section 1116(a)(2) of the Social Security Act (see § 201.4 of this chapter), changes of time are subject to the requirements of the statute.

(2) Hold conferences to settle or simplify the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding.

(3) Regulate participation of parties and amici curiae and require parties and amici curiae to state their position with respect to the various issues in the proceeding.

(4) Administer oaths and affirmations.

(5) Rule on motions and other procedural items on matters pending before him including issuance of protective orders or other relief to a party against whom discovery is sought.

(6) Regulate the course of the hearing and conduct of counsel therein.

(7) Examine witnesses.

(8) Receive, rule on, exclude or limit evidence or discovery.

(9) Fix the time for filing motions, petitions, briefs, or other items in matters pending before him.

(10) If the presiding officer is the Administrator, make a final decision.

(11) If the presiding officer is a hearing examiner, certify the entire record including his recommended findings and proposed decision to the Administrator.

(12) Take any action authorized by the rules in this part or in conformance with the provisions of 5 U.S.C. 551-559.

(b) The presiding officer does not have authority to compel by subpena the production of witnesses, papers, or other evidence.

(c) If the presiding officer is a hearing examiner, his authority pertains to the issues of compliance by a State with Federal requirements which are to be considered at the hearing, and does not extend to the question of whether, in case of any noncompliance, Federal payments will not be made in respect to the entire State plan or will be limited to categories under or parts of the State plan affected by such noncompliance.

§ 213.23a Discovery.

The Department and any party named in the Notice issued pursuant to § 213.11 shall have the right to conduct discovery (including depositions) against opposing parties. Rules 26-37 of the Federal Rules of Civil Procedures shall apply to such proceedings; there will be no fixed rule on priority of discovery. Upon written motion, the Presiding Officer shall promptly rule upon any objection to such discovery action initiated pursuant to this section. The Presiding Officer shall also have the power to grant a protective order or relief to any party against whom discovery is sought and to restrict or control discovery so as to prevent undue delay in the conduct of the hearing. Upon the failure of any party to make discovery, the Presiding Officer may, in his discretion, issue any order and impose any sanction (other than contempt orders) authorized by Rule 37 of the Federal Rules of Civil Procedure.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302)).

Effective date. These regulations shall be effective October 29, 1975.

(Catalog of Federal Domestic Assistance Program Number 13.714, Medical Assistance Program; 13.748, Work Incentive Program-Child Care-Employment Related Support Services; 13.754, Public Assistance-Social Services;

13.761, Public Assistance-Maintenance Assistance (State Aid))

Dated: September 8, 1975.

JOHN C. YOUNG,
Acting Administrator, Social and Rehabilitation Service.

Approved: October 22, 1975.

DAVID MATHEWS,
Secretary.

[FR Doc.75-28957 Filed 10-28-75;8:45 am]

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

Unemployed Fathers of Dependent Children

Part 233 of Chapter II, Title 45 of the Code of Federal Regulations is amended by revising § 233.100(a)(5)(ii) and 233.20(a)(3)(ix) to implement the ruling of the U.S. Supreme Court in *Philbrook* v. *Glodgett et. al.* and *Weinberger* v. *Glodgett et. al.*, June 9, 1975. The Court affirmed a U.S. District Court decision by deciding that an unemployed father of dependent children who is otherwise eligible for financial assistance under Section 407 (AFDC-UF) of Title IV-A of the Social Security Act and who is also eligible to receive unemployment compensation under an unemployment compensation law of a State or of the United States has the option of receiving either unemployment compensation or financial assistance under AFDC-UF. Section 407(b)(2)(C)(ii) of the Act provides for denial of aid to such AFDC-UF fathers if they receive unemployment compensation.

The revised regulations comply with this ruling by requiring that a State which has elected to provide AFDC for children of unemployed fathers under title IV-A of the Social Security Act must provide in its State plan that such fathers, if otherwise eligible, shall be given the option of receiving AFDC-UF or unemployment compensation.

Notice of proposed rulemaking has been dispensed with because the regulations merely implement a requirement under a U.S. Supreme Court decision and delay would be contrary to interest of the assistance program and of recipients.

1. Section 233.20 is amended by revising paragraph (a)(3)(ix) to read as follows:

§ 233.20 Need and amount of assistance.

(a) * * *
(3) * * *

(ix) Provide that the agency will establish and carry out policies with reference to applicants' and recipients' potential sources of income that can be developed to a state of availability. (See § 233.100(a)(5)(ii) of this part regarding unemployment compensation.)

* * * * *

2. Section 233.100 is amended by revising (a)(5)(ii) to read as follows:

§ 233.100 Dependent children of unemployed fathers.

(a) * * *
(5) * * *

(ii) With respect to any week for which such child's father receives unemployment compensation under an unemployment compensation law of a State or of the United States. Under this requirement, notwithstanding the provisions of § 233.20(a)(3)(ix) of this chapter, such child's father, if otherwise eligible, shall have the option of refusing to accept unemployment compensation for which he is eligible and thereby have the option of receiving aid under AFDC.

* * * * *

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302))

Effective date: These regulations shall be effective January 27, 1976 or earlier at State option.

(Catalog of Federal Domestic Assistance Program No. 13.761, Public Assistance—Maintenance Assistance (State Aid))

It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A-107.

Dated: August 22, 1975.

JOHN C. YOUNG,
Acting Administrator, Social and Rehabilitation Service.

Approved: October 20, 1975.

DAVID MATHEWS,
Secretary.

[FR Doc.75-28851 Filed 10-28-75;8:45 am]

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

PART 1076—ECONOMIC DEVELOPMENT PROGRAMS

Small Business Programs Funded by CDCs

The purpose of this subjart is to establish the criteria and procedures under which the Community Services Administration financial assistance under Section 712 may be provided for CDC small business programs. All CDCs were provided an opportunity to review the proposed policy statement and to submit comments, some of which have been incorporated into the final version. CSA welcomes additional comments and suggested changes and will revise its regulations in light of the comments if warranted. Please address all comments to: Mr. Louis Ramirez, Associate Director, Office of Economic Development, Community Services Administration, 1200 19th Street NW., Washington, D.C. 20506.

Effective date: This subpart takes effect on November 28, 1975.

BERT A. GALLEGOS,
Director.

Subpart—Small Business Programs Funded by CDCs

Sec.
1076.20-1 Applicability.
1076.20-2 Definitions.
1076.20-3 Policy.
1076.20-4 Procedures, requirements, and limitations.

AUTHORITY: The provisions of this subpart issued under sec. 602, 78 Stat. 530; 42 U.S.C. 2942.

Subpart—Small Business Programs Funded by CDCs

§ 1076.20-1 Applicability.

This subpart applies to all small business programs financially assisted by community development corporations (CDCs) with CSA funds under Section 712 of the Community Services Act of 1974.

§ 1076.20-2 Definitions.

(a) *Business Development Program.* Any venture, organized for profit or on a cooperative basis, financed in whole or in part by a CDC out of CSA Section 712(a)(1) grant funds under budget cost category 2.5, Investment Capital.

(b) *Small Business Program.* A business development program which is not a venture operating on a cooperative basis and in which the CDC has no equity interest.

(c) *Equity Interest.* Current ownership, in whole or in part, of a venture. Specifically excluded from the meaning of this term are those forms of debt financing which involve an option or right to purchase or convert to ownership at some future time or upon some future contingency.

§ 1076.20-3 Policy.

(a) Financial assistance for business development programs under Section 712(a)(1) shall be used predominantly for equity investment (either alone or in combination with other forms of financial assistance) and for cooperatives. This priority on equity investment and support for cooperatives derives from two factors: (1) The emphasis in Title VII on programs which will promote community-based *ownership* opportunities, an objective that can be best attained through either direct CDC investment in special impact area businesses or in development of cooperatives; and (2) the availability from other federal funding sources of financial assistance for technical assistance, loans, or loan guarantees, whereas Title VII is the only federal funding authority for equity capital.

(b) In addition, insofar as Section 712 funds are used for financial assistance to small business programs, it is OED policy that such financial assistance be generally limited to loan *guarantees*, rather than be in the form of direct loans. This policy derives from three factors: (1) The availability of direct loan funds from non-Title VII funding sources, including commercial lending institutions; (2) the "leveraging" effect of loan guarantees in attracting outside debt capital into the special impact area; and (3) direct loan programs impose a significant administrative burden

on the CDC and require substantial staff resources to service the loans once they are approved.

(c) Finally, since the primary thrust of Title VII is community economic development for low-income residents, rather than support to individual entrepreneurs, small business programs assisted with Section 712 funds should also further the Title VII objective of promoting ownership or employment opportunities for low-income special impact area residents.

(d) Accordingly, CDC use of financial assistance under Section 712 for small business programs is subject to three basic policy limitations: (1) No more than a small percentage, up to a fixed maximum, of CDC investment capital may be used for such programs; (2) except in unusual circumstances direct loans may not be made to small business programs from CDC investment capital funds, and only then as approved by OED on a case by case basis; and (3) financial assistance to small business programs whether in the form of direct loans, loan guarantees, or some other debt capital mechanism, may not be provided from CDC investment capital funds unless such assistance will provide ownership or employment opportunities to low-income residents of the special impact area.

§ 1076.20–4 Procedures, requirements, and limitations.

(a) No CDC administrative funds under Section 712 (cost categories other than 2.5) may be used for financial assistance, whether direct loans or loan guarantees, to small business programs. NOTE: This does not preclude the use of administrative funds for technical assistance, e.g., by CDC staff, to small business programs.

(b) Except as provided in any venture autonomy agreement approved by OED, or as provided in any revolving loan guarantee fund approved by OED, no CDC investment capital funds (cost category 2.5) may be used for any individual loan or loan guarantee for any small business program without prior written approval by OED.

(c) In requesting OED approval for any small business program, whether it be an individual loan, individual loan guarantee, or revolving loan guarantee fund, the CDC must demonstrate how the program will directly benefit low-income residents of the special impact area, by providing either ownership or employment opportunities, or both. The CDC must also demonstrate, in requesting approval for any loan guarantee, that loans from commercial or other public sources would not be available without such guarantee. The CDC must also demonstrate, in requesting approval for any direct loan, that either loans from commercial or other public sources would not be available even if the CDC were to guarantee such loans, or that control rights necessary to promote the purposes of Title VII would be obtainable only through a direct loan.

(d) No more than 15 percent of the CDC's investment capital funds under Section 712 in any grant period may be used for small business programs, including both direct loans and loan guarantees.

(e) No loan guarantee may exceed 50 percent of the loan(s) to any recipient, thereby providing at a minimum two-for-one leverage. Where the CDC can devise effective relationships with the lending institution and/or SBA, guarantees of less than 50 percent providing much greater leverage, should be arranged.

[FR Doc.75-28925 Filed 10-28-75;8:45 am]

PART 1076—ECONOMIC DEVELOPMENT PROGRAMS

Training, Public Service Employment, and Social Service Programs

This subpart establishes the criteria and procedures under which CSA financial assistance under Section 712 may be provided for CDC training, public service employment, and social service programs. All CDCs were provided an opportunity to review the proposed policy statement and to submit comments, some of which have been incorporated into the final version. CSA welcomes additional comments and suggested changes and will revise its regulations in light of the comments if warranted. Please address all comments to: Mr. Louis Ramirez, Associate Director, Office of Economic Development, Community Services Administration, 1200 19th Street, NW., Washington, D.C. 20506.

Effective date: This subpart takes effect on November 28, 1975.

BERT A. GALLEGOS,
Director.

Subpart—Training, Public Service Employment, and Social Service Programs

AUTHORITY: The provisions of this subpart issued under sec. 602, 78 Stat. 530; 42 U.S.C. 2942.

Subpart—Training, Public Service Employment, and Social Service Programs

§ 1076.30–1 Applicability.

This subpart applies to all training, public service employment, and social service program financially assisted by community development corporations (CDCs) with CSA funds under section 712 of the Community Services Act of 1974.

§ 1076.30–2 Definitions.

(a) *Venture.* Any program financed in whole or in part by a CDC out of CSA Section 712 grant funds approved under budget cost category 2.5, Investment Capital, whether the financial assistance is in the form of equity investment, loans, loan guarantees, other forms of debt financing, direct subsidy, or any combination of such financial assistance. There are three categories of ventures:

(1) *Business Development Programs.* These ventures, financially assisted under the authority of Section 712(a)(1), are organized primarily for profit, while at the same time providing employment and ownership opportunities to special impact area residents.

(2) *Community Development Programs.* These ventures, financially assisted under the authority of Section 712(a)(2), are directed primarily to improving the community's physical environment or "infrastructure", and include projects such as housing, land development, industrial parks, and commercial centers. While not generally expected to produce profits, such ventures are expected to be financially self-sustaining; where they are not designed to break even financially any necessary subsidy is generally obtained from non-CSA sources. NOTE: Some CDCs use the term "community development" to include the broad range of ventures other than business ventures, including the third category of ventures described in paragraph (a)(3) of this section. For purposes of this subpart "community development" the category of ventures is described below.

(3) *Training, Public Service Employment, and Social Service Programs.* These are "social ventures" which are designed primarily for purposes other than profit (i.e., business development) or improvement of the physical environment (i.e., community development) but which are directed to a variety of social needs (e.g., job training, health, child care) which are in turn supportive of the CDC's business development and community development ventures. Like community development ventures, these social ventures are expected to be either financially self-sustaining or to be subsidized from non-CSA sources. Where a venture designed to meet a social need, such as a day care center or a nursing home, is organized as a business for purposes of generating profits, it shall be considered a business development program for purposes of this subpart.

§ 1076.30–3 Policy.

(a) The primary thrusts and unique features of the Special Impact Program are business development and community development, for which federal grant funds are limited or nonexistent from sources other than Title VII. Although training, public service employment, and social service programs may be legitimate and necessary components of a comprehensive community economic development strategy, it is clearly the intent of Title VII that they be secondary components, supportive of the primary business development and community development components. Moreover, there are substantial alternative federal funding sources, including other titles of the Community Services Act itself, for such programs.

(b) Accordingly, CDC use of financial assistance under Section 712 for training, public service employment, and so-

cial service programs is subject to three basic policy limitations: (1) No more than a small percentage, up to a fixed maximum, of CDC investment capital may be used for such programs; (2) no CDC investment capital may be used at all for such programs unless it can be demonstrated that other funding sources are unavailable; and (3) it must be demonstrated that such programs are directly related to and clearly supportive of the CDC's business and community development programs.

§ 1076.30–4 Procedures, requirements, and limitations.

(a) Except as provided in any venture autonomy agreement approved by OED no CDC investment capital funds (cost category 2.5) may be used for training, public service employment, and social service programs without prior written approval by OED.

(b) In requesting OED approval for the program, the CDC must demonstrate how the program is directly related to the CDC's business or community development programs. For example, training and public service employment programs must either upgrade the skills of individuals employed by CDC-supported ventures or provide necessary training to individuals who will be employed by CDC-supported ventures or related businesses. Similarly, a day care program, for example, could be supported by Section 712 funds only if it were a prerequisite to creating jobs for target area residents in CDC-supported or related ventures.

(c) No more than 20 percent of the CDC's investment capital funds under Section 712 in any grant period may be used for training, public service employment, and social service programs.

(d) No CDC investment capital funds under Section 712 may be used for training, public service employment, or social service programs unless the CDC can demonstrate that funds are not available from other public or private sources for these purposes in the special impact area.

(e) In all training, public service employment, and social service programs financially assisted under Section 712, preference in hiring shall be given to special impact area residents, subject to their qualifications and needs.

(f) Nothing in this subpart shall limit a CDC's authority to use profits earned on ventures assisted under Section 712, or to use otherwise retainable interest earned on Section 712 funds, to support training, public service employment, and social service programs, provided such programs are consistent with the purposes of Title VII.

[FR Doc.75-28924 Filed 10-28-75;8:45 am]

PART 1076—ECONOMIC DEVELOPMENT PROGRAMS

Location of CDC Ventures

This subpart establishes the policies governing the location, within or outside the special impact area, of CDC ventures financed with CSA investment capital funds under Section 712, and to define the circumstances and procedures under which CDCs may request approval to use investment capital funds for ventures located outside the special impact area. All CDCs were provided an opportunity to review the proposed policy statement and to submit comments, some of which have been incorporated into the final version. CSA welcomes additional comments and suggested changes and will revise its regulations in light of the comments if warranted. Please address all comments to: Mr. Louis Ramirez, Associate Director, Office of Economic Development, Community Services Administration, 1200 19th Street, N.W., Washington, D.C. 20506.

Effective Date: This subpart takes effect on November 28, 1975.

BERT A. GALLEGOS,
Director.

Subpart—Location of CDC Ventures

Sec.

AUTHORITY: The provisions of this subpart issued under sec. 602, 78 Stat. 530; 42 U.S.C. 2942.

Subpart—Location of CDC Ventures

§ 1076.40–1 Applicability.

This subpart applies to all ventures financially assisted by community development corporations (CDCs) with CSA funds under Section 712 of the Community Services Act of 1974.

§ 1076.40–2 Definitions.

(a) *Venture.* Any program financed in whole or in part by a CDC out of CSA Section 712 grant funds approved under budget cost category 2.5, Investment Capital, whether the financial assistance is in the form of equity investment, loans, loan guarantees, other forms of debt financing, direct subsidy, or any combination of such financial assistance. For purposes of this subpart, the term "venture" specifically excludes investment capital funds deposited in a bank or other financial institution in cash or cash equivalents, or invested in Treasury bills or notes or similar instruments. The term does, however, include the programs to which such funds may be committed.

(b) Location or located. These terms refer to the principal place(s) of business or program activity where the venture provides significant employment or services. For purposes of this subpart these terms specifically exclude secondary facilities that support the principal activity, but include facilities that reproduce the principal activity. For example, a furniture manufacturing venture will be considered to be located within the CDC's special impact area, provided its actual manufacturing operations are so located, even if support facilities such as a sales office, a showroom, or warehouses are located outside the impact area. However, if a second manufacturing plant were established outside the special impact area, the venture would be considered to be located outside the impact area even though the initial manufacturing facility was within the impact area.

§ 1076.40–3 Policy.

(a) By funding a CDC under Title VII, OED has determined, based on recommendations and statistics submitted by the CDC, that the CDC's special impact area has the potential for economic viability and has sufficient targets for investment of venture capital. Given the tremendous needs of the special impact area and the limited resources available under Title VII, it is therefore expected that all CSA investment capital funds will be used for ventures located within the special impact area.

(b) It is clearly the intent of Congress that Title VII funds be invested wholly or primarily in the special impact area. Section 712(a)(1) authorizes financial assistance to businesses located "in or near the area served". Section 713(a)(6) provides that "all projects and related facilities will, to the maximum feasible extent, be located in the areas served".

(c) Accordingly, except as provided in § 1076.40–4, no CSA investment capital funds may be used in ventures located outside the special impact area.

§ 1076.40–4 Procedures, requirements, and limitations.

(a) No CDC investment capital funds (cost category 2.5) may be used for ventures located outside the special impact area without prior written OED approval, even if use of investment capital funds would otherwise not require prior OED approval by virtue of a venture autonomy agreement approved by OED.

(b) Prior to requesting approval for use of investment capital funds for a venture located outside the special impact area, the CDC should consider requesting OED approval of an expansion or modification of the special impact area boundaries to include the proposed location provided such inclusion is justified in terms of the long-term economic viability and integrity of the special impact area.

(c) In requesting OED approval for a venture located outside the special impact area, the CDC must demonstrate that *all* of the following three criteria have been met: (1) There are not other promising venture opportunities within the target area that would provide benefits to residents; (2) the proposed venture could not be located or relocated in the special impact area (NOTE: CDCs are reminded that Section 713(b) of the Community Services Act prohibits venture relocations which increase unemployment in the area of the original location); and (3) the proposed venture is either close enough to the impact area to provide, without significant inconveni-

ence or expense, employment opportunities to special impact area residents, or would provide essential goods or services to, or improve the competitive position of, other CDC ventures.

[FR Doc.75-28923 Filed 10-28-75;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20423; FCC 75-1066]

PART 76—CABLE TELEVISION SERVICE

Postponement of Divestiture Requirements for Prohibited Cross-Ownership; Extension of Time

Amendment of Part 76, Subpart J, of the Commission's Rules and Regulations Relative to Cable Television Systems; and Postponement of Divestiture Requirement of § 76.501 Relative to Prohibited Cross-Ownership in Existence on or Before July 1, 1970.

1. In paragraph 22 of the *Second Report and Order*, FCC 75-1066, Released September 29, 1975 at 40 FR 44554, concerning cross-ownership between cable television systems and local television broadcast stations, the Commission indicated that pending waiver petitions could be supplemented "within 30 days of the publication of this *Report and Order* in the FEDERAL REGISTER." In the FEDERAL REGISTER edition of the *Second Report and Order*, however, this was erroneously changed to require such supplementation by September 29, 1975, the day of FEDERAL REGISTER publication.

2. In order to correct this error, we are hereby extending the time to file supplemental pleadings in cable television-television station cross-ownership proceedings to November 28, 1975.

Released: October 22, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-29002 Filed 10-28-75;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 rule making prior to the adoption of the final rules.

DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Part 2]

PUBLIC USE AND RECREATION

Proposed Regulations for Public Use

Notice is hereby given that pursuant to the authority contained in the Act of August 25, 1916 (39 Stat. 535, as amended and supplemented; 16 U.S.C. § 1 *et seq.*), the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. § 4321 *et seq.*), and 245 DM–1 (34 FR 13879), as amended, it is proposed to amend portions of Part 2 of the general regulations as set forth below.

Existing provisions contained in § 2.6 provide that the Superintendent may "close or restrict public use of all or any portion of a park area, when necessary for the protection of the area or the safety and welfare of persons or property by the posting of appropriate signs indicating the extent and scope of closure." The purpose of this amendment is to detail and clarify the authority of the Superintendent to restrict or regulate public use of any area or facility for these purposes.

The proposed amendment defines "public use limit;" provides for the establishment of such limits; lists the factors which are considered in establishing such limits; authorizes the use of permit, registration, or reservation systems to regulate public use, in addition to the existing authority to post restrictions; provides for adequate public notice of the existence of public use limitation systems; and prohibits public use in violation of public use regulatory systems or in excess of established public use limits.

The establishment of any public use limitation system within any particular unit of the National Park System will be in accordance with the requirements of the National Environmental Policy Act of 1969.

Park Managers will give timely and adequate notice of their operations to reach the many visitors to the National Park System who live, and plan their trips, at distant locations. Where limitations are imposed both legal notice and other appropriate notice through various media will be used to give the majority of visitors a reasonable opportunity to be aware of the existence of the limitation and how they can obtain adequate detailed information.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggetsions, or objections regarding the proposed amendments to the Director, National Park Service, Department of the Interior, Washington, D.C. 20240, on or before the 60th day after publication.

Section 2.6 is proposed to read in its entirety as follows:

§ 2.6 Closures and public use limits.

(a) *Closing of areas.* (1) The Superintendent may establish a reasonable schedule of visiting hours for all or portions of a park area and close to public use all or any portion of a park area when necessary for the protection of the area or the safety and welfare of persons or property by the posting of appropriate signs indicating the extent and scope of closure.

(2) All persons shall observe and abide by officially posted signs designating closed areas and visiting hours.

(b) *Regulating public use*—(1) *Definition.* A public use limit is an established maximum number of persons and, if appropriate, the number and type of pack and saddle andimals and/or the amount, size, and type of equipment permitted to enter, be brought into, or remain in a designated area or facility at one time.

(2) The Superintendent may establish a public use limit for any designated area or facility. In the establishment of such a limit, the Superintendent shall utilize the best information available and consider factors such as health, safety, sanitation, environmental and resource protection, management capabilities, available facilities and visitor enjoyment.

(3) To implement a public use limit, the Superintendent may establish permit, registration, or reservation systems. The existence of a public use limitation system in any unit of the National Park System will be made known to the public through publication in the FEDERAL REGISTER and/or by posting, as appropriate.

(4) No person may enter or remain in an area or facility for which a public use limit has been established without complying with the requirements of the permit, registration, or reservation systems which have been established to regulate such public use.

(5) Entry into an area in violation of posted restrictions is prohibited.

JOHN E. COOK,
Acting Director,
National Park Service.

[FR Doc.75-29026 Filed 10-28-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

[Docket No. 75N–0190]

VINYL CHLORIDE POLYMERS IN CONTACT WITH FOOD

Extension of Time for Comments

The Commissioner of Food and Drugs issued a proposed rule, published in the FEDERAL REGISTER of September 3, 1975 (40 FR 40529), to restrict the uses of vinyl chloride polymers in contact with food. A period of 60 days was provided for filing comments. The Commissioner is extending the time for comment to December 12, 1975.

The Commissioner has received requests for extension of the comment period, primarily because some of the data being prepared will require new extraction studies along with a review of the proposed new analytical procedures. This cannot be done in the original 60-day time frame. The requests, on file with the Hearing Clerk, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852, contain other justifications for the extension.

Good reason therefor appearing, the Commissioner hereby extends the period for filing comments on this proposal to December 12, 1975.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 402, 409, 701, 52 Stat. 1046–1047 as amended, 1055–1056, as amended, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 342, 348, 371)) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: October 22, 1975.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.75-28928 Filed 10-28-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Part 583]

[Docket No. 75–25; Notice 2]

COST INFORMATION REPORTING

Correction

In FR Doc. 75–24335 appearing at pages 42365 to 42368 in the issue of Sep-

tember 12, 1975, paragraph (h) of § 583.5 should read:

§ 583.5 Cost information reports.

* * * * *

(h) * * *

(6) *Other cost.* The manufacturer shall state any cost not otherwise specified in paragraphs (h) (1) through (5) of this section.

* * * * *

(Sec. 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1407); sec. 105, Pub. L 93-492, 88 Stat. 1470 (15 U.S.C. 1402); delegations of authority at 49 CFR 151 and 49 CFR 501.8)

Issued on October 23, 1975.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.75-29015 Filed 10-28-75;8:45 am]

Office of the Secretary

[49 CFR Part 71]

[OST Docket No. 21]

STANDARD TIME ZONE BOUNDARY IN THE STATE OF MICHIGAN

Withdrawal of Proposed Rule Making

In Notice No. 75-8, published in the FEDERAL REGISTER on September 30, 1975, (40 FR 44844), the Department of Transportation instituted a proceeding to determine whether § 71.5 of Title 49 of the Code of Federal Regulations should be amended to redefine the boundary line between the eastern and central zones so as to include Iron County, Michigan, in the eastern zone. The institution of the proceeding was based upon a petition of the governing body of the county. The notice stated that consideration would be given to all comments received on or before October 20, 1975.

The Uniform Time Act of 1966 authorizes the Secretary of Transportation to modify the boundaries of time zones "having regard for the convenience of commerce and the existing junction points and division points of common carriers engaged in interstate or foreign commerce". In 1973, the four counties in the Upper Peninsula of Michigan bordering Wisconsin (Menominee, Dickinson, Iron and Gogebic) were relocated to the central from the eastern time zone (38 FR 9228, April 12, 1973).

A public hearing was conducted in Iron River, Michigan, on October 8, 1975, to inform residents of the county of the issues involved, and obtain their views concerning redefinition of the time zone boundary.

Approximately 50 Iron County residents appeared at the public hearing. Many desired Iron County to remain in the central time zone because of economic ties to Dickinson County in which many Iron County miners work. Almost as many expressed preference for the eastern time zone because as many Iron County miners work in Houghton and Baraga Counties to the north, which are in the eastern time zone. Several business associations submitted comments opposing any change in the existing time zone boundary.

It was made clear by almost all present at the hearing that their real desire is to have the entire Upper Peninsula observe the same time, and that either eastern or central time would be acceptable.

In response to the Federal Register notice, 112 persons submitted written comments to the docket, of which 94 opposed the time change.

There is not a showing in this proceeding that the convenience of commerce would be served by including Iron County in the eastern time zone. To the contrary, commerce would more likely be disrupted should Iron County observe a time different from that observed in Gogebic and Dickinson Counties. Inasmuch as Iron, together with the other three counties, was only recently placed in the central time zone upon a strong showing of convenience to commerce and to the residents of the area, a similar showing of reasons to locate Iron County to the eastern zone is required. That has not been made. If Iron County were in the eastern time zone, a "gap" would exist between Dickinson and Gogebic Counties. Travel between the two principal cities in those counties (Iron Mountain and Ironwood) would entail crossing, on U.S. Highway 2, from the central to the eastern and again to the central time zones.

The real concern of Iron County residents appears to be time uniformity in the Upper Peninsula. This issue, however, is not before the Department of Transportation for resolution. It should be understood that this Department would, upon proper request from the political authority or authorities having jurisdiction within the areas concerned, consider the issue of Upper Peninsula time uniformity.

In view of the foregoing, it does not appear to the Department that the convenience of commerce would be served by making any change in the present time zone boundary. Accordingly, the notice of proposed rule making published in the FEDERAL REGISTER on September 30, 1975, (40 FR 44844), is hereby withdrawn. The effect of this action is to leave Iron County in the central time zone.

This action is taken under the authority of the Act of March 19, 1918, as amended by the Uniform Time Act of 1966 (15 U.S.C. 260-67), section 6(e)(5) of the Department of Transportation Act (49 U.S.C. 1655(e)(5)), and section 1.56(a) of the Regulations of the Office of the Secretary of Transportation (49 CFR 1.56(a)).

Issued in Washington, D.C. on October 22, 1975.

JOHN HART ELY,
General Counsel.

[FR Doc.75-28918 Filed 10-28-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 448-2]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS; MONTANA

Proposed Amendments to the SO_2 Control Strategy

On October 16, 1975, at 40 FR 48521, the Administrator proposed regulations to limit emissions of sulfur dioxide from the Anaconda Company's copper smelter located near Anaconda, Montana, in the Helena Intrastate Air Quality Control Region. A public hearing to discuss the proposal is set for November 19, 1975 in the Webster-Garfield Elementary School Auditorium, Front and Montana Streets, Butte, Montana, beginning at 9 a.m. Following the proposal of these regulations, the Administrator determined that formal procedures are appropriate to handle start-up, shutdown, and malfunction problems that may occur at the smelter.

Due to the nature of the operation of sulfuric acid production units to be used as SO_2 control devices at the Anaconda smelter, certain problems are likely to arise which are specific to this smelter. Process upsets in the metallurgical process frequently occur which may cause severe fluctuations of the sulfer dioxide concentration in the gas stream treated by the acid plant. These fluctuations, which can also be caused by a varying sulfur content in the feed ore, cause a process imbalance in the sulfuric acid manufacturing process which may result in an unavoidable shutdown. Although such difficulties can be minimized by proper maintenance of the gas purification system and the acid plant, these problems will still occur on occasion.

Generally, the proposed regulation establishes procedures for reporting information to the Administrator for his use in selecting the appropriate enforcement option. In order for a period of excess emissions to be considered as the result of a start-up, shutdown, or malfunction, the source owner or operator must demonstrate to the satisfaction of the Administrator that certain requirements have been met. Specifically, the owner or operator will be required to demonstrate that the excess emissions were unavoidable, that the air pollution control equipment, processes or process equipment had been operated and maintained in a manner consistent with good practice for minimizing emissions, that the cause of the excess emissions was corrected as expeditiously as practicable, that all possible steps were taken to minimize the impact of the excess emissions on ambient air quality, and that the amount and duration of the excess emissions were minimized to the maximum extent practicable. This would include, but not be limited to, curtailing bypass of strong SO_2 streams around acid plants to the maximum extent practicable during periods of start-up, shutdown, or malfunction.

The proposed regulations also require the source to notify the Administrator by telephone within 24 hours of the onset of a period of excess emissions if the applicable short-term national ambient air quality standards for sulfur dioxide have been exceeded as indicated by measured air quality data, and the source is required to confirm such telephone notifications in writing within five days. Further notification of all periods of excess emissions is required on a monthly basis. In addition, the regulation requires that all times, including those periods of excess emissions, all possible actions must be taken to avoid a violation of any national ambient air quality standard. The regulation does not preclude the Environmental Protection Agency (EPA) from enforcing against the source if mass concentration emission limitations are violated.

On October 8, 1975, the Governor of Montana submitted to the Administrator a revision to the Montana State Implementation Plan (SIP) for the attainment and maintenance of the national ambient air quality standards. The revision sets forth a sulfur oxides control strategy for the Anaconda Company's copper smelter located near Anaconda, Montana. Specifically, the revision limits sulfur dioxide emissions from the facility to 450 tons per day. EPA's analysis of the proposed revision indicates that an emission limitation of 10,400 pounds per hour (125 tons per day) of sulfur dioxide is required to provide for attainment and maintenance of the national sulfur oxides ambient air quality standards. Therefore, the Administrator proposes to disapprove the Montana SIP revision.

The proposed Montana revisions are available for public inspection at the office of the State Agency and at the offices of the Environmental Protection Agency listed below. An evaluation of the sulfur dioxide controls necessary for attainment and maintenance of the national sulfur oxides ambient air quality standards in the vicinity of the Anaconda smelter is described in the October 16, 1975, FEDERAL REGISTER (40 FR 48521) and is available at the offices of the Environmental Protection Agency listed below.

Montana Department of Health and Environmental Sciences, Division of Environmental Sciences, Cogswell Building, Helena, Montana 59601.
Environmental Protection Agency, Region VIII, Office of Public Affairs, 1860 Lincoln Street, Suite 900, Denver, Colorado 80203.
Environmental Protection Agency, Room 329, 401 M Street, SW., Washington, D.C. 20460.

Interested persons are encouraged to participate in this rulemaking by submitting written comments, preferably in triplicate, on the proposed regulation presented below and on the EPA's proposed disapproval of the Montana SIP revision. Such comments will be accepted for consideration on or before December 15, 1975. Additionally, the public is invited to provide comments on this proposed rulemaking at the public hearing to be held on November 19, 1975 in the Webster-Garfield Elementary School Auditorium, Front and Montana Streets, Butte, Montana, beginning at 9 a.m., and, if necessary, reconvening at 7 p.m. so that all present may be heard. Comments should be addressed to the Office of the Regional Counsel, Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Suite 900, Denver, Colorado 80203. All comments will be available for public inspection during normal business hours at the offices of the Environmental Protection Agency noted above.

(Section 110 of the Clean Air Act (42 U.S.C.—1857 c-5); 39 FR 18805)

Dated: October 17, 1975.

JOHN A. GREEN,
Regional Administrator,
Region VIII.

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

Subpart BB—Montana

In § 52.1373, paragraph (d) is added as follows:

§ 52.2325 Control strategy: Sulfur oxides.

* * * * *

(d) *Compliance with emission standards; Reporting excess emissions during periods of start-up, shutdown, or malfunction: Copper smelter.* (1) The provisions of this paragraph are applicable to the copper smelter owned and operated by the Anaconda Company located near the city of Anaconda in Deer Lodge County, Montana, in the Helena Intrastate Air Quality Control Region.

(2) All terms used in this paragraph but not specifically defined below shall have the meaning given them in the Clean Air Act or Parts 51, 52, or 60 of this chapter.

(i) The term "excess emissions" means an emission rate which exceeds the applicable emission limitation prescribed by paragraph (c) of this section. The averaging time and test procedures for determining such excess emissions shall be as specified as part of the applicable emission limitation.

(ii) The term "malfunction" means any sudden and unavoidable failure of air pollution equipment or process equipment or a process to operate in a normal and usual manner. Failures that are caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions.

(iii) The term "start-up" means the setting into operation of air pollution control equipment or process equipment for any purpose.

(iv) The term "shutdown" means the cessation of operation of any air pollution control equipment or process equipment for any purpose.

(3) The owner or operator of the smelter subject to this paragraph shall notify the Region VIII Office of the Environmental Protection Agency to the attention of the Director, Enforcement Division, as indicated below when the applicable emission limitation in paragraph (c) of this section is not met.

(i) The owner or operator of the smelter subject to this paragraph must evaluate the impact on air quality of any excess emissions and notify the Director, Enforcement Division, if any Company owned or operated ambient air quality monitors located in the vicinity of the source indicate that any 24-hour and/or 3-hour national ambient air quality standard for SO_2 has been exceeded. Such notification shall be made by telephone within 24 hours of the occurrence of measurements in excess of these short-term standards, and shall be confirmed by submitting written notification within five days of each occurrence.

(ii) For any period of excess emissions the owner or operator of the smelter subject to this paragraph must submit written notification of all excess emissions for each month in which such excess emissions occur. Each monthly report shall be submitted within fifteen days following the end of each month together with the applicable progress reports required by paragraph (c)(3) of this section.

(iii) Each notification required pursuant to paragraph (d)(3)(i) or (3)(ii) of this section shall include:

(A) The identity of the stack and/or other emission points where the excess emissions occurred;

(B) The magnitude of the excess emissions in the units of the applicable emission limitation and the operating data and calculations used in determining the magnitude of the excess emissions;

(C) The time and duration of the excess emissions;

(D) The identity of the equipment causing the excess emissions;

(E) The nature and cause of such excess emissions;

(F) The measured or estimated ambient SO_2 concentrations which occurred or were expected to occur during the period;

(G) If excess emissions were the result of a malfunction, the steps taken to remedy the malfunction and the steps taken or planned to prevent the recurrence of such malfunctions;

(H) The steps taken to limit excess emissions and the resultant impact on ambient air quality.

(4)(i) In order for an excess emission to be considered the result of a malfunction, start-up, or shutdown, the owner or operator of the smelter subject to this paragraph shall demonstrate to the satisfaction of the Administrator that:

(A) The air pollution control equipment, process equipment, or processes were at all times maintained and operated, to the maximum extent practicable, in a manner consistent with good practice for minimizing emissions;

(B) Repairs were made as expeditiously as practicable, including the use of off-shift labor and overtime;

(C) The amount and duration of the excess emissions were minimized to the

maximum extent practicable during periods of such emissions;

(D) Bypass of strong SO_2 streams around acid plants was limited to the maximum extent practicable;

(E) All possible steps were taken to minimize the impact of the excess emissions on ambient air quality;

(F) The definitional criteria of paragraph (d)(2)(ii) of this section are met, if the excess emissions were the result of an alleged malfunction;

(G) The reporting requirements set forth in paragraph (d)(3) of this section are met.

(ii) The demonstrations required by paragraph (d)(4)(i) of this section shall be submitted together with the monthly report required by paragraph (d)(3)(ii) of this section.

(5) Excess emissions during periods of routine maintenance or during routine phasing in or out of process equipment shall not be considered to be the result of a start-up, shutdown, or malfunction.

(6) Failure of the owner or operator of the smelter subject to this paragraph to report periods of excess emissions pursuant to paragraph (d)(3) of this section shall be considered a violation of the provisions of this subpart.

(7) Nothing in this section shall be construed to limit the authority of the Administrator to institute actions under Section 303 or 113 of the Clean Air Act or to exercise his authority under Section 114 of the Clean Air Act.

[FR Doc.75-29042 Filed 10-28-75;8:45 am]

[40 CFR Part 52]

[FRL 448-1]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS; UTAH

Proposed Amendments to SO_2 Control Strategy

On October 18, 1974, at 39 FR 37212, the Administrator proposed regulations to limit emissions of sulfur dioxide from the Kennecott copper smelter located near Magna, Utah, in the Wasatch Front Air Quality Control Region. Testimony at the hearing on behalf of Kennecott Copper Corporation raised an issue with respect to the difficulty in meeting the proposed emission limitation during those periods when the control equipment is not functioning at the maximum efficiency. Because this issue can be separated from the selection of the appropriate emission limitation to be required of the facility, the Administrator intends to take separate action on this latter issue in the near future. Following an analysis of the record of the public hearing and subsequent public comments, the Administrator has determined that formal procedures are appropriate to handle start-up, shutdown, and malfunction problems that may occur at the smelter.

Due to the nature of the operation of sulfuric acid production units to be used as SO_2 control devices at the Kennecott smelter, certain problems are likely to arise which are specific to this smelter. Process upsets in the metallurgical process frequently occur which may cause severe fluctuations of the sulfur dioxide concentration in the gas stream treated by the acid plant. These fluctuations, which can also be caused by a varying sulfur content in the feed ore, cause a process imbalance in the sulfuric acid manufacturing process which may result in an unavoidable shutdown. Although such difficulties can be minimized by proper maintenance of the gas purification system and the acid plant, these problems will still occur on occasion.

Generally, the proposed regulation establishes procedures for reporting information to the Administrator for his use in selecting the appropriate enforcement option. In order for a period of excess emissions to be considered as the result of a start-up, shutdown, or malfunction, the source owner or operator must demonstrate to the satisfaction of the Administrator that certain requirements have been met. Specifically, the owner or operator will be required to demonstrate that the excess emissions were unavoidable, that the air pollution control equipment, processes or process equipment had been operated and maintained in a manner consistent with good practice for minimizing emissions, that the cause of the excess emissions was corrected as expeditiously as practicable, that all possible steps were taken to minimize the impact of the excess emissions on ambient air quality, and that the amount and duration of the excess emissions were minimized to the maximum extent practicable. This would include, but not be limited to, curtailing bypass of strong SO_2 streams around acid plants to the maximum extent practicable during periods of start-up, shutdown, or malfunction.

The proposed regulations also require the source to notify the Administrator by telephone within 24 hours of the onset of a period of excess emissions if the applicable short-term national ambient air quality standards for sulfur dioxide have been exceeded as indicated by measured air quality data, and the source is required to confirm such telephone notifications in writing within five days. Further notification of all periods of excess emissions is required on a monthly basis. In addition, the regulation requires that at all times, including those periods of excess emissions, all possible actions must be taken to avoid a violation of any national ambient air quality standard. The regulation does not preclude the Environmental Protection Agency (EPA) from enforcing against the source if mass concentration emission limitations are violated.

As stated above, the issue of start-up, shutdown, and malfunction problems at the smelter was discussed at the public hearing conducted by EPA in Salt Lake City on December 11-12, 1974. Even though the public hearing requirements of Part 51 have been satisfied, and a separate public hearing on these proposed regulations is as a result not required, the Administrator believes that the magnitude of these proposed regulations warrants an opportunity for interested persons to submit written comments. Interested persons may participate in this rulemaking by submitting written comments, preferably in triplicate, to the Office of Regional Counsel, U.S. Environmental Protection Agency, Region VIII, Suite 900, 1860 Lincoln Street, Denver, Colorado 80203. All relevant comments on or before December 15, 1975 will be considered. All relevant comments received will be available for public inspection and copying at the Regional Office at the address given above and at EPA's Public Information Reference Unit, Room 2922, (EPA Library), 401 M Street, S.W., Washington, D.C. 20460. This notice of proposed rulemaking is issued under the authority of section 110 of the Clean Air Act (42 U.S.C. 1857c-5).

Dated: September 30, 1975.

JOHN A. GREEN,
Regional Administrator.

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

Subpart TT—Utah

In § 52.2325, paragraph (e) is added as follows:

§ 52.2325 Control strategy: Sulfur oxides.

* * * * *

(e) *Compliance with emission standards; Reporting excess emissions during periods of start-up, shutdown, or malfunction: Copper smelter.* (1) The provisions of this paragraph are applicable to the copper smelter owned and operated by the Kennecott Copper Corporation located in Salt Lake County, Utah, in the Wasatch Front Intrastate Air Quality Control Region.

(2) All terms used in this paragraph but not specifically defined below shall have the meaning given them in the Clean Air Act or Parts 51, 52, or 60 of this chapter.

(i) The term "excess emissions" means an emission rate which exceeds the applicable emission limitation prescribed by paragraph (d) of this section. The averaging time and test procedures for determining such excess emissions shall be specified as part of the applicable emission limitation.

(ii) The term "malfunction" means any sudden and unavoidable failure of air pollution equipment or process equipment or a process to operate in a normal and usual manner. Failures that are caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions.

(iii) The term "start-up" means the setting into operation of air pollution control equipment or process equipment for any purpose.

(iv) The term "shutdown" means the cessation of operation of any air pollu-

tion control equipment or process equipment for any purpose.

(3) The owner or operator of the smelter subject to this paragraph shall notify the Region VIII Office of the Environmental Protection Agency to the attention of the Director, Enforcement Division, as indicated below when the applicable emission limitation in paragraph (d) of this section is not met.

(i) The owner or operator of the smelter to this paragraph must evaluate the impact on air quality of any excess emissions and notify the Director, Enforcement Division, if any Company owned or operated ambient air quality monitors located in the vicinity of the source indicate that any 24-hour and/or 3-hour national ambient air quality standard for SO_2 has been exceeded. Such notification shall be made by telephone within 24 hours of the occurrence of measurements in excess of these short-term standards, and shall be confirmed by submitting written notification within five days of each occurrence.

(ii) For any period of excess emissions the owner or operator of the smelter subject to this paragraph must submit written notification of all excess emissions for each month in which such excess emissions occur. Each monthly report shall be submitted within fifteen days following the end of each month together with the applicable progress reports required by paragraph (d)(3) of this section.

(iii) Each notification required pursuant to paragraph (e)(3)(i) or (3)(ii) of this section shall include:

(A) The identity of the stack and/or other emission points where the excess emissions occurred;

(B) The magnitude of the excess emissions in the units of the aplicable emission limitation and the operating data and calculations used in determining the magnitude of the excess emissions;

(C) The time and duration of the excess emissions;

(D) The identity of the equipment causing the excess emissions;

(E) The nature and cause of such excess emissions;

(F) The measured or estimated ambient SO_2 concentrations which occurred or were expected to occur during the period;

(G) If excess emissions were the result of a malfunction, the steps taken to remedy the malfunction and the steps taken or planned to prevent the recurrence of such malfunctions;

(H) The steps taken to limit excess emissions and the resultant impact on ambient air quality.

(4)(i) In order for an excess emission to be considered the result of a malfunction, start-up, or shutdown, the owner or operator of the smelter subject to this paragraph shall demonstrate to the satisfaction of the Administrator that:

(A) The air pollution control equipment, process equipment, or processes were at all times maintained and operated, to the maximum extent practicable, in a manner consistent with good practice for minimizing emissions;

(B) Repairs were made as expeditiously as practicable, including the use of off-shift labor and overtime;

(C) The amount and duration of the excess emissions were minimized to the maximum extent practicable during periods of such emissions;

(D) Bypass of strong SO_2 streams around acid plants was limited to the maximum extent practicable;

(E) All possible steps were taken to minimize the impact of the excess emissions on ambient air quality;

(F) The definitional criteria of paragraph (e)(2)(ii) of this section are met, if the excess emissions were the result of an alleged malfunction;

(G) The reporting requirements set forth in paragraph (e)(3) of this section are met.

(ii) The demonstrations required by paragraph (e)(4)(i) of this section shall be submitted together with the monthly report required by paragraph (e)(3)(ii) of this section.

(5) Excess emissions during periods of routine maintenance or during routine phasing in or out of process equipment shall not be considered to be the result of a start-up, shutdown, or malfunction.

(6) Failure of the owner or operator of the smelter subject to this paragraph to report periods of excess emissions pursuant to paragraph (e)(3) of this section shall be considered a violation of the provisions of this subpart.

(7) Nothing in this section shall be construed to limit the authority of the Administrator to institute actions under Section 303 or 113 of the Clean Air Act or to exercise his authority under Section 114 of the Clean Air Act.

[FR Doc.75-29043 Filed 10-28-75;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 445]

LABELING AND ADVERTISING OF ROOM AIR CONDITIONERS

Notice of Extension of Time To Propose Disputed Issues of Fact Regarding Proposed Trade Regulation Rule

Notice of a proposed rulemaking proceeding including the text of and a statement of reason for the proposed rule concerning Labeling and Advertising of Room Air Conditioners was published in the FEDERAL REGISTER on August 28, 1975 (40 FR 39532). The Notice also included an invitation to interested parties to propose disputed issues of fact regarding the proposed rule.

The Presiding Officer, in response to a petition on behalf of an association, certain industry members and others, has determined, pursuant to the authority of § 1.13(c)(1) of the Commission's Procedures and Rules of Practice, to extend the time for proposing disputed issues of fact for a period of thirty days beyond the original closing date of October 27, 1975. Accordingly, the record in this matter will remain open until November 26, 1975, for the receipt of such proposed disputed issues which should be submitted to the Special Assistant Director for Rulemaking, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

Written comments concerning this rulemaking proceeding other than proposals identifying disputed issues of fact will as previously announced be accepted until forty-five days before commencement of public hearings which are to be scheduled at a later date.

Issued: October 22, 1975.

RAYMOND L. RHINE,
Presiding Officer.

[FR Doc.75-28951 Filed 10-28-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 52]

CANNED BAKED BEANS (OTHER THAN PORK AND BEANS AND CANNED DRIED BEANS)

Proposed Grade Standards

Notice is given that the United States Department of Agriculture is considering a proposal to establish United States Standards for Grades of Canned Baked Beans (7 CFR, 52.6461–52.6474). These grade standards are issued under authority of the Agricultural Marketing Act of 1946 (Sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624) which provides for the issuance of official U.S. grades to designate different levels of quality for the voluntary use of producers, buyers, and consumers. Official grading services are also provided under this act upon request and upon payment of a fee to cover the cost of such services.

All persons who desire to submit written views, data, or arguments for consideration in connection with the proposed standards should file the same in duplicate, not later than December 31, 1975, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250. All written submissions made under this notice will be available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR, 1.27 (b)).

NOTE: Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

STATEMENT OF CONSIDERATION LEADING TO THE PROPOSED STANDARDS

Following publication of proposed grade standards for canned dried beans and canned pork and beans (40 FR 8207 *et seq*) comments were received pointing out a number of parameters and characteristics of beans prepared by baking which differed from those described in the proposed standards for grades of canned dried beans and canned pork and beans. The comments suggested adding two additional factors (consistency and flavor) for numerical scoring in the grading of baked products to those three factors initially proposed in the dried beans standards. As the baking of beans differs from other methods of

cooking and results in a product characteristically different, the comments also proposed creation of new standards for maximum allowable defects.

The Department concludes that establishing separate grade standards for canned baked beans, in a fashion similar to the proposed separate grade standards for canned pork and beans, would provide useful criteria for buyers, producers, and consumers. Thus, under authority granted in the Agricultural Marketing Act of 1946, which provides for the issuance of official U.S. grades to designate different levels of quality, the Department proposes establishing grade standards for canned baked beans.

To acknowledge comments which were submitted, the Department is publishing elsewhere in this issue of the FEDERAL REGISTER:

(1) A second notice of proposed rulemaking to revise United States Standards for Grades of Canned Dried Beans; and

(2) A second notice of proposed rulemaking to establish United States Standards for Grades of Canned Pork and Beans.

The proposed standards are as follows:

Sec.

Subpart—United States Standards For Grades of Canned Baked Beans (Other Than Pork and Beans) and Canned Dried Beans

AUTHORITY: Agricultural Marketing Act of 1946, Sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624.

§ 52.6461 Product description.

Canned baked beans is the product prepared from dry mature beans or peas used for canning; but not including soybeans (Soya Max) and sweet peas or early peas (Pisum sativum); and with a packing medium or sauce consisting of water and any other safe and suitable ingredient(s) permissible under the provisions of the Federal Food, Drug and Cosmetic Act. Pork and pork fat may be used as an optional ingredient. The product is prepared by washing, soaking in cold water (colored beans only) and baking of the beans, in sauce, by the application of dry heat in open or loosely covered containers in a closed oven at atmospheric pressure for sufficient prolonged time to produce a typical texture (character) and flavor before canning. The product is then packed in hermetically sealed containers and sufficiently processed by heat to assure preservation.

§ 52.6462 Types.

(a) White beans.

(b) Red kidney beans.

(c) Yellow eye beans including soldier beans.

(d) Beans of other colors or types suitable for baking (except soybeans, sweet peas, and early peas).

§ 52.6463 Styles.

(a) "In brown sugar, molasses, or New England sauce" means packed with nutritive carbohydrate sweetening ingredients and any other safe and suitable ingredient(s).

(b) "In tomato sauce" means packed with tomato pulp or a similar tomato product and any other safe and suitable ingredient(s).

§ 52.6464 Grades.

(a) "U.S. Grade A" is the quality of canned baked beans that has the following attributes:

(1) Practically similar varietal characteristics;

(2) Scores at least 17 points for consistency;

(3) Practically free from defects;

(4) Scores at least 17 points for character;

(5) Scores at least 17 points for flavor;

(6) Scores at least 13 points for color;

(7) Totals not less than 90 points when scored in accordance with the scoring system outlined in this subpart.

(b) "U.S. Grade B" is the quality of canned baked beans that has at least the following attributes:

(1) Reasonably similar varietal characteristics;

(2) Reasonably good consistency;

(3) Reasonably free from defects;

(4) Reasonably good character;

(5) Reasonably good flavor;

(6) Reasonably good color;

(7) Totals not less than 80 points when scored in accordance with the scoring system outlined in this subpart.

(c) "Substandard" is the quality of canned baked beans that fails to meet the requirements of U.S. Grade B.

§ 52.6465 Sample unit size.

Compliance with requirements for factors of quality is based on a sample unit consisting of the entire contents of one container, irrespective of container size.

§ 52.6466 Determining the grade.

(a) *General.* The grade of canned baked beans is determined by considering, in addition to the requirements of the respective grade, the following factors:

(b) *Factor not rated by score points.* (1) Similar varietal characteristics.

(c) *Factors rated by score points.* The relative importance of each factor is expressed numerically on the scale of 100. The maximum number of points that may be given for each factor is:

Factors	*Points*
Color	15
Consistency	20
Flavor	20
Character	20
Absence of defects	25
Total score	100

(d) *Definitions.* (1) Similar varietal characteristics.

(i) "Contrasting varieties" means dried beans of the same type or of other types that are of a noticeably different color, size, or shape from the dried beans of the predominating variety (such as red beans in white beans).

(ii) "Varieties that blend" means dried beans of the same type or of other types that are similar in color, size, or shape to the dried beans of the predominating variety (such as pea beans with small white beans).

(iii) "Practically similar varietal characteristics" means that the beans are practically alike in size, shape, color, general characteristics, and that there may be present not more than 0.5 percent, by weight, of contrasting varieties; and not more than 5 percent, by weight, of varieties that blend.

(iv) "Reasonably similar varietal characteristics" means that the beans are reasonably alike in size, shape, color, general characteristics, and that there may be present not more than 1 percent, by weight, of contracting varieties; and not more than 10 percent, by weight, of varieties that blend.

§ 52.6467 Determining the rating of the factors which are scored.

The essential variations within each factor which is scored are so described that the value may be determined for each factor and expressed numerically. The numerical range within each factor which is scored is inclusive (for example, "18 to 20 points" means 18, 19, or 20 points).

§ 52.6468 Color.

(a) (*A*) *Classification.* Canned baked beans that have a good color may be given a score of 14 or 15 points. "Good color" means that the beans have a uniform color typical of the baked variety and style of pack.

(b) (*B*) *Classification.* Canned baked beans that have a reasonably good color may be given a score of 12 or 13 points. "Reasonably good color" means that the baked beans have a reasonably uniform color typical of the baked variety and style of pack. Canned baked beans that score 12 points for color shall not be graded above "U.S. Grade B" regardless of the total score for the product. (This is a partial limiting rule).

(c) (*SStd*) *Classification.* Canned baked beans that fail to mee the requirements of Grade B may be given a score of 0 to 11 points and shall not be graded above Substandard regardless of the total score for the product. (This is a limiting rule).

§ 52.6469 **Consistency.**

(a) *General.* The factor of consistency is determined two minutes after the product, without prior stirring or shaking, is emptied onto a flat surface.

(b) *(A) Classification.* Canned baked beans that have a good consistency may be given a score of 18 to 20 points. "Good consistency" means that the product shall form a well-rounded mound when emptied from the container and that the sauce shall be of such quantity and character that it clings to the beans with not more than a reasonable separation from the mound.

(c) *(B) Classification.* Canned baked beans that have a reasonably good consistency may be given a score of 16 or 17 points. "Reasonably good consistency" means that the product shall form a mound that may tend to take the shape of the container with little leveling or may level itself substantially with a fairly large amount of sauce separation from the beans. Canned baked beans that score 16 points for consistency shall not be graded above "U.S. Grade B" regardless of the total score for the product. (This is a partial limiting rule).

(d) *(SStd) Classification.* Canned baked beans that fail to meet the requirements of Grade B may be given a score of 0 to 15 points and shall not be graded above Substandard regardless of the total score for the product. (This is a limiting rule).

§ 52.6470 **Flavor.**

(a) *(A) Classification.* Canned baked beans that have a good flavor may be given a score of 18 to 20 points. "Good flavor" means that the product has a good baked bean flavor and odor characteristic of the variety of bean and style of pack with all flavor components in proper balance. The product is free from objectionable flavors and odors.

(b) *(B) Classification.* Canned baked beans that have a reasonably good flavor may be given a score of 16 or 17 points. "Reasonably good flavor" means that the product has a reasonably good baked bean flavor and odor characteristic of the variety of bean and style of pack with flavor components in reasonable balance. The product is free from objectionable flavors and odors. Canned baked beans that score 16 points for flavor shall not be graded above "U.S. Grade B" regardless of the total score for the product. (This is a partial limiting rule).

(c) *(SStd) Classification.* Canned baked beans that fail to meet the requirements of Grade B may be given a score of 0 to 15 points and shall not be graded above Substandard regardless of the total score for the product. (This is a limiting rule).

§ 52.6471 **Character.**

(a) *General.* The factor of character refers to the degree of freedom from hard units, mushy units, units with tough skins; and the overall texture of the product.

(b) *(A) Classification.* Canned baked beans that have a good character may be given a score of 18 to 20 points. "Good character" means that the beans have a good, typical texture, that may be slightly soft or slightly firm; and that the skins are tender.

(c) *(B) Classification.* Canned baked beans that have a reasonably good character may be given a score of 16 or 17 points. "Reasonably good character" means that the beans have a reasonably good, typical texture, that the beans may be firm or soft but not hard or mushy; and that the skins may be slightly tough. Canned baked beans that score 16 points for character shall not be graded above "U.S. Grade B" regardless of the total score for the product. (This is a partial limiting rule).

(d) *(SStd) Classification.* Canned baked beans that fail to meet the requirements of Grade B may be given a score of 0 to 15 points and shall not be graded above Substandard regardless of the total score for the product. (This is a limiting rule.)

§ 52.6472 **Absence of defects.**

(a) *General.* The factor of absence of defects refers to the degree of freedom from extraneous vegetable material, loose skins, broken and mashed units, and blemished and seriously blemished units.

(b) *Definitions.* (1) "Loose skin" means a skin or portions of a skin which have become separated wholly from the cotyledons.

(2) "Broken unit" means a cotyledon or portions of a cotyledon which have become separated from the unit; or, a unit or portions of a unit with the skin or portions of the skin missing.

(3) "Mashed unit" means a unit that is crushed or flattened to the extent that its appearance is seriously affected.

(4) "Blemished unit" means a bean that is spotted or discolored or otherwise blemished to such an extent that its appearance or edibility is materially affected. Beans that have a characteristic darkening around the hilum are not considered blemished units.

(5) "Seriously blemished unit" means a bean affected by discoloration (including scorched or burned beans) insect or similar type injury or otherwise defective to such an extent that its appearance or edibility is seriously affected.

(6) "Extraneous vegetable material" means vegetable material common to the bean plant or other plants that is harmless upon eating and includes but is not limited to, peas (Pisum sativum), lentils (Lens culinaris), cereal grains and corn.

(7) A "unit" means two cotyledons and a skin.

(c) *(A) Classification.* Canned baked beans that are practically free from defects may be given a score of 22 to 25 points. "Practically free from defects" means that the canned baked beans comply with the requirements listed in Table I.

(d) *(B) Classification.* Canned baked beans that are reasonably free from defects may be given a score of 20 or 21 points. Canned baked beans that fall into this classification shall not be graded above U.S. Grade B regardless of the total score for the product. (This is a limiting rule). "Reasonably free from defects" means that the canned baked beans comply with the requirements in Table II.

(e) *(SStd) Classification.* Canned baked beans that fail to meet the requirements of Grade B may be given a score of 0 to 19 points and shall not be graded above Substandard regardless of the total score for the product. (This is a limiting rule).

TABLE II.—*Allowances for defects in canned baked beans—(A) classification*

Defect	Maximum amount of defects in a sample unit—by net weight		Maximum amount of defects permitted in a sample all types
	Type a	Types b, c, and d	
	Percent	*Percent*	
Loose skin, broken and mashed	10	20	
Blemished and seriously blemished	3	3	
Seriously blemished	2	2	
Extraneous vegetable material	(1)	(1)	1 piece per 80 oz net weight.

[1] No limit.

TABLE I.—*Allowances for defects in canned baked beans—(B) classification*

Defect	Maximum amount of defects in a sample unit—by net weight		Maximum amount of defects permitted in a sample all types
	Type a	Types b, c, and d	
	Percent	*Percent*	
Loose skin, broken and mashed	20	35	
Blemished and seriously blemished	6	6	
Seriously blemished	4	4	
Extraneous vegetable material	(1)	(1)	1 piece per 20 oz net weight.

[1] No limit.

§ 52.6473 **Determining the grade of a lot.**

The grade of a lot of canned baked beans covered by these standards is determined by the procedures set forth in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (§§ 52.1 to 52.83).

§ 52.6474 Score sheet for canned baked beans.

Container size			----
Container code or identification			----
Label			----
Net weight (in ounces)			----
Vacuum (in inches)			----
Type			----
Style of pack			----
Factors	**Score points**		
Color	15	(A) 14-15 (B) [1] 12-13 (SStd) [2] 0-11	
Consistency	20	(A) 18-20 (B) [1] 16-17 (SStd) [2] 0-15	
Flavor	20	(A) 18-20 (B) [1] 16-17 (SStd) [2] 0-15	
Character	20	(A) 18-20 (B) [1] 16-17 (SStd) [2] 0-15	
Absence of defects	25	(A) 22-25 (B) [1] 20-21 (SStd) [2] 0-19	
Total score	100		----
Similar varietal characteristics—practically; reasonably			----
Grade			----

[1] Indicates partial limiting rule.
[2] Indicates limiting rule.

Dated: October 22, 1975.

DONALD E. WILKINSON,
Administrator.

[FR Doc.75-28955 Filed 10-28-75;8:45 am]

[7 CFR Part 52]

UNITED STATES STANDARDS FOR GRADES OF CANNED DRIED BEANS (OTHER THAN PORK AND BEANS AND BAKED BEANS)

Second Notice of Proposed Rulemaking

A notice of proposed rulemaking to revise the United States Standards for Grades of Canned Dried Beans (7 CFR, 52.411–52.422) was published in the FEDERAL REGISTER of February 26, 1975 (40 FR 8207). A correction to the proposed rulemaking was published in the FEDERAL REGISTER of March 17, 1975 (40 FR 12092). An extension of time to the comment period appeared in the FEDERAL REGISTER of May 7, 1975 (40 FR 19830). Due to the substance of the comments which were received in response to the first notice of proposed rulemaking, the Department is issuing a second notice of proposed rulemaking. The Department is requesting comments from all interested persons.

These grade standards are issued under the authority of the Agricultural Marketing Act of 1946 (Sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624) which provides for the issuance of official U.S. grades to designate different levels of quality for the voluntary use of producers, buyers, and consumers. Official grading services are also provided under this act upon request and upon payment of a fee to cover the cost of such services.

NOTE: Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

All persons who desire to submit written views, data, or arguments for consideration in connection with the proposed revision should file the same in duplicate, not later than December 31, 1975, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250. All written submissions made under this notice will be available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR, 1.27(b)).

Statement of consideration leading to the second notice of proposed rulemaking to revise the standards. The first notice of proposed rulemaking, proposed revision of the U.S. Standards for Grades of Canned Dried Beans for the following reasons:

(1) There had been no major revision to the standards since 1947;

(2) An informal survey indicated that revision of the standards is desirable; and

(3) There are no other Federal standards for the product. The proposed changes were as follows:

(1) Canned pork and beans, a popular food among consumers, would be considered under a separate proposal;

(2) The product description would permit "safe and suitable" optional ingredients;

(3) Classification of types and styles of canned dried beans would be broadened;

(4) Introduction of a washed drained weight procedure and a recommendation to establish the amount of beans that should be in a given container; and

(5) Provide new criteria for quality factors.

Two consumers submitted comments to the first notice of proposed rulemaking. One consumer was appalled at the Department's continuing effort to police various industries. The other consumer stated a desire for requiring processors to use an adequate quantity of beans in each can and this was supported by copy of a letter to a large food processor.

Three canned dried bean processors and the National Canners Association (NCA), a nonprofit trade association, submitted comments to the first notice of proposed rulemaking. A compilation of these comments is as follows:

(1) Endorsed introduction of separate grade standards for canned pork and beans;

(2) Endorsed addition of "safe and suitable" optional ingredients;

(3) Recommended a lower washed drained weight to take into account the differences among can sizes, bean types and packing media;

(4) Recommended the allowance for "varieties that blend" be increased to 10 percent for "reasonably similar varietal characteristics";

(5) Recommended a revised definition for "reasonably good consistency" which would allow a slight amount of "matting";

(6) Requested that the current tolerances for defects be retained;

(7) Petitioned the Department to remove "baked beans" from the canned dried bean standards and establish separate standards for "New England Style" baked beans; and

(8) Requested a 90 day extension of time for the comment period.

One comment was received from the Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. The comment deemed that use of dual grade level designations, such as "U.S. Grade A" or "U.S. Fancy", is confusing to the consumer. It recommended that use of the alternative "U.S. Fancy" be deleted from the standards. Too, the comment argued for standards of fill for canned dried beans.

To acknowledge comments which were submitted, the Department is publishing:

(1) A second notice of proposed rulemaking to revise United States Standards for Grades of Canned Dried Beans, as well as, elsewhere in this issue of the FEDERAL REGISTER;

(2) A second notice of proposed rulemaking to establish U.S. Standards for Grades of Pork and Beans; and

(3) A first notice of proposed rulemaking to establish U.S. Standards for Grades of Baked Beans.

This proposed rulemaking provides for:

(1) "Safe and suitable" optional ingredients;

(2) Deletion of the washed drained weight procedure and the recommended minimum limit. The first notice recommended that not less than approximately 60 percent, by weight, of the contents of the container should be beans. Industry comments indicate that this percentage is impracticable on account of the variation in can sizes, bean types, and packing media. Washed drained weight is not now a requirement in the current standards.

(3) Retention of the 5 percent allowance for "varieties that blend" for "practically similar varietal characteristics" and changing the allowance to 10 percent for "reasonably similar varietal characteristics". This would permit dried beans to grade no higher than Grade B if more than 5 percent varieties that blend are present in the container;

(4) Changing the definition for "reasonably good consistency" to allow for a slight amount of "matting" or compacting in the bottom of the container;

(5) Changing the allowance for loose skin, broken and mashed beans from 4 to 5 percent for Grade A; and from 8 to 10 percent for Grade B. The allowance for blemished and seriously blemished beans and extraneous vegetable material shall be retained as published in the first notice of proposed rulemaking;

(6) Introduction of separate U.S. Standards for Grades of Canned Baked Beans. "New England Style" baked beans are solid pack, prepared by the application of dry heat in open or loosely covered containers in an enclosed oven at atmospheric pressure; and

(7) Discontinue alternative grade level designations. "U.S. Grade A" and "U.S. Grade B" shall be used to designate the

top and second quality levels, respectively.

The Department granted an extension of time for comments on the first notice of proposed rulemaking in the FEDERAL REGISTER of May 7, 1975 (40 FR 19830). The extended comment period ended July 14, 1975.

The proposed revision is as follows:

Sec.
52.411 Production description.
52.412 Types.
52.413 Styles.
52.414 Grades.
52.415 Sample unit size.
52.416 Determining the grade.
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52.418 Color.
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Subpart—United States Standards for Grades of Canned Dried Beans (Other Than Pork and Beans and Baked Beans)

AUTHORITY: Agricultural Marketing Act of 1946, Sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624.

§ 52.411 Product description.

Canned dried beans is the product prepared from dry mature beans or peas used for canning; but not including soybeans (Soja Max) and sweet peas or early peas (Pisum sativum); and with a packing medium or sauce consisting of water and any other safe and suitable ingredients permissible under the provisions of the Federal Food, Drug, and Cosmetic Act. Pork or pork fat may be used as an optional ingredient. The product is prepared by washing, soaking, blanching, cooking, or other processing except baking. It is packed in hermetically sealed containers and sufficiently processed by heat to assure preservation.

§ 52.412 Types.

(a) White beans.
(b) Lima beans.
(c) Red beans.
(d) Pinto beans.
(e) Pink beans.
(f) Garbanzos or chick-peas.
(g) Black beans
(h) Yelloweye beans.
(i) Black-eye peas or field peas.
(j) Beans of other colors or types (except soybeans, sweet peas, and early peas).

§ 52.413 Styles.

(a) "In tomato sauce" means packed with tomato pulp or a similar tomato product and any other safe and suitable ingredient(s). The sauce may be highly seasoned.

(b) "In sweetened sauce" means packed with nutritive carbohydrate sweetening ingredients and any other safe and suitable ingredient(s). The sauce may be highly seasoned.

(c) "In brine" means packed with brine and any other safe and suitable ingredient(s).

§ 52.414 Grades.

(a) "U.S. Grade A" is the quality of canned dried beans that has the following attributes:

(1) Practically similar varietal characteristics;

(2) At least a reasonably good consistency for the styles of "in tomato sauce" and "in sweetened sauce;"

(3) Practically free from defects;

(4) Good character;

(5) Good flavor;

(6) Scores at least 17 points for color; and

(7) Totals not less than 90 points when scored in accordance with the scoring system outlined in this subpart.

(b) "U.S. Grade B" is the quality of canned dried beans that has at least the following attributes:

(1) Reasonably similar varietal characteristics;

(2) Reasonably good consistency for the styles of "in tomato sauce" and "in sweetened sauce;"

(3) Reasonably free from defects;

(4) Reasonably good character;

(5) Reasonably good flavor;

(6) Reasonably good color; and

(7) Totals not less than 80 points when scored in accordance with the scoring system outlined in this subpart.

(c) "Substandard" is the quality of canned dried beans that fail to meet the requirements of U.S. Grade B.

§ 52.415 Sample unit size.

Compliance with requirements for factors of quality is based on a sample unit consisting of the entire contents of one container, irrespective of container size.

§ 52.416 Determining the grade.

(a) *General.* The grade of canned dried beans is determined by considering, in addition to the requirements of the respective grade, the following factors:

(b) *Factors not rated by score points.*

(1) Similar varietal characteristics;

(2) Consistency: and

(3) Flavor.

(c) *Factors rated by score points.* The relative importance of each factor is expressed numerically on the scale of 100. The maximum number of points that may be given each factor is:

Factors:	*Points*
Color	20
Absence of defects	40
Character	40
Total	100

(d) *Definitions.* (1) Similar varietal characteristics.

(i) "Contrasting varieties" means dried beans of the same type or of other types that are of a noticeably different color, size, or shape from the dried beans of the predominating variety (such as red beans with white beans).

(ii) "Varieties that blend" means dried beans of the same type or of other types that are similar in color, size, or shape to the dried beans of the predominating variety (such as pea beans with small white beans).

(iii) "Practically similar varietal characteristics" means that the beans are practically alike in size, shape, color, general characteristics, and that there may be present not more than 0.5 percent, by weight, of contrasting varieties; and not more than 5 percent, by weight, of varieties that blend.

(iv) "Reasonably similar varietal characteristics" means that the beans are reasonably alike in size, shape, color, general characteristics, and that there may be present not more than 1 percent, by weight, of contrasting varieties; and not more than 10 percent, by weight, of varieties that blend.

(2) Consistency.

(i) The factor of consistency is not a requirement for the style of "in brine."

(ii) "Reasonably good consistency" means that the sauce is reasonably smooth and may be slightly grainy or slightly lumpy. The product may have a thick consistency but is practically free from "matting" and when emptied on a flat surface may have practically no separation of liquid; or, the product may have a thin consistency with separation of liquid, but it shall not be watery.

(3) "Good flavor" means that the product has a good, normal flavor and odor, characteristic of the style of pack, and is free from objectionable flavors and objectionable odors of any kind.

(4) "Reasonably good flavor" means that the product may be lacking in good flavor and odor, but is characteristic of the style of pack, and is free from objectionable flavors and objectionable odors of any kind.

§ 52.417 Determining the rating of the factors which are scored.

The essential variation within each factor which is scored are so described that the value is determined for each factor and expressed numerically. The numerical range within each factor which is scored is inclusive (for example, "18 to 20 points" means 18, 19, or 20 points).

§ 52.418 Color.

(a) *(A) classification.* Canned dried beans that have a good color may be given a score of 18 to 20 points. "Good color" means that the beans have a color that is bright and reasonably uniform, typical of the type; and that the sauce or brine has a color typical of the style of pack.

(b) *(B) classification.* Canned dried beans that have a reasonably good color may be given a score of 16 or 17 points. Canned dried beans that score 16 points for color shall not be graded above "U.S. Grade B", regardless of the total score for the product (this is a partial limiting rule). "Reasonably good color" means that the beans have a color that is fairly uniform, typical of the type; may be dull but not off color; and that the sauce or brine has a color typical of the style of pack.

(c) *(SStd.) classification.* Canned dried beans that fail to meet the requirements of Grade B may be given a score

of 0 to 15 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 52.419 Absence of defects.

(a) *General.* The factor of absence of defects refers to the degree of freedom from extraneous vegetable material, loose skin, broken and mashed units, and blemished and seriously blemished units.

(b) *Definitions.* (1) "Loose skin" means a skin or portions of a skin which have become separated wholly from the cotyledons.

(2) "Broken unit" means a cotyledon or portions of a cotyledon which have become separated from a unit; or a unit or portions of a unit with the skin or portions of the skin missing.

(3) "Mashed unit" means a unit that is crushed or flattened to the extent that its appearance is seriously affected.

(4) "Blemished unit" means a bean that is spotted or discolored or otherwise blemished to such an extent that its appearance or edibility is materially affected. Beans that have a characteristic darkening around the hilum are not considered blemished units.

(5) "Seriously blemished units" means a bean affected by discoloration, insect or similar type injury, or otherwise defective to such an extent that its appearance or edibility is seriously affected.

(6) "Extraneous vegetable material" means vegetable material common to the bean plant or other plants that is harmless upon eating and includes, but is not limited to, peas (Pisum sativum), lentils (Lens culinaris), cereal grains, and corn.

(7) A "unit" means two cotyledons and a skin.

(c) *(A) classification.* Canned dried beans that are practically free from defects may be given a score of 36 to 40 points. "Practically free from defects" means that the canned dried beans comply with the requirements in Table I.

(d) *(B classification.* Canned dried beans that are reasonably free from defects may be given a score of 32 to 35 points. Canned dried beans that fall into this classification shall not be graded above "U.S. Grade B," regardless of the total score for the product (this is a limiting rule). "Reasonably free from defects" means that the canned dried beans comply with the requirements in Table II.

(e) *(SStd.) classification.* Canned dried beans that fail to meet the requirements of Grade B may be given a score of 0 to 31 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

TABLE I.—*Allowances for defects in canned dried beans—(A) classification*

Defect	Maximum amount of defects permitted in a sample unit—by net weight (percent)	Maximum amount of defects permitted in a sample
Loose skin, broken, and mashed.	5	
Blemished and seriously blemished.	3	
Seriously blemished	2	
Extraneous vegetable material.	[1]	1 piece per 80 or net weight.

[1] No limit.

TABLE II.—*Allowances for defects in canned dried beans—(B) classification*

Defect	Maximum amount of defects permitted in a sample unit—by net weight (percent)	Maximum amount of defects permitted in a sample
Loose skin, broken, and mashed.	10	
Blemished and seriously blemished.	6	
Seriously blemished	4	
Extraneous vegetable material.	[1]	1 piece per 20 or net weight.

[1] No limit.

§ 52.420 Character.

(a) *General.* The factor of character refers to the degree of freedom from hard units, mushy units, units with tough skins; and the overall texture of the product.

(b) *(A) classification.* Canned dried beans that have a good character may be given a score of 36 to 40 points. "Good character" means that the beans have a good, typical texture, that may be slightly soft or slightly firm; and that the skins are tender.

(c) *(B) classification.* Canned dried beans that have a reasonably good character may be given a score of 32 to 35 points. Canned dried beans that fall into this classification shall not be graded above "U.S. Grade B," regardless of the total score for the product (this is a limiting rule). "Reasonably good character" means that the beans have a reasonably good, typical texture, that the beans may be firm or soft and the presence of hard or mushy units does not materially affect the eating quality; and that the skins may be slightly tough.

(d) *(SStd.) classification.* Canned dried beans that fail to meet the requirements of Grade B may be given a score of 0 to 31 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 52.421 Determining the grade of a lot.

The grade of a lot of canned dried beans covered by these standards is determined by the procedures set forth in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (§§ 52.1 to 52.83).

§ 52.422 Score sheet for canned dried beans.

Container size.....
Container code or identification.....
Label.....
Net weight (in ounces).....
Vacuum (in inches).....
Type.....
Style of pack.....

Factors	Score Points		
Color	20	(A)	18-20
		(B)	[2] 16-17
		(SStd)	[3] 0-15
Absence of defects	40	(A)	36-40
		(B)	[2] 32-35
		(SStd)	[3] 0-31
Character	40	(A)	36-40
		(B)	[2] 32-35
		(SStd)	[3] 0-31
Total score	100		

Consistency [1]—reasonably good; substandard.....
Flavor—good; reasonably good.....
Similar varietal characteristics—practically; reasonably.....
Grade.....

[1] Indicates limiting rule.
[2] Indicates partial limiting rule.
[3] Not applicable for the style of "in brine."

Dated: October 22, 1975.

DONALD E. WILKINSON,
Administrator.

[FR Doc.75-28954 Filed 10-28-75;8:45 am]

[7 CFR Part 52]

UNITED STATES STANDARDS FOR GRADES OF CANNED PORK AND BEANS

Second Notice of Proposed Rulemaking

A notice of proposed rulemaking to establish United States Standards for Grades of Canned Pork and Beans (7 CFR, 52.6441-52.6451) was published in the FEDERAL REGISTER of February 26, 1975 (40 FR 8209). An extension of time to the comment period appeared in the FEDERAL REGISTER of May 7, 1975 (40 FR 19830). Due to the substance of the comments which were received in response to the first notice of proposed rulemaking, the Department is issuing a second notice of proposed rulemaking. The Depart-

ment is requesting comments from all interested persons.

These grade standards are issued under the authority of the Agricultural Marketing Act of 1946 (Sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624) which provides for the issuance of official U.S. grades to designate different levels of quality for the voluntary use of producers, buyers, and consumers. Official grading services are also provided under this act upon request and upon payment of a fee to cover the cost of such services.

NOTE: Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

All persons who desire to submit written views, data, arguments for consideration in connection with the proposed U.S. standards should file the same in duplicate, not later than December 31, 1975, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250. All written submissions made under this notice will be available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR, 1.27(b)).

Statement of consideration leading to the second notice of proposed rulemaking to establish the standards. The first notice of proposed rulemaking, proposed establishing U.S. Standards for Grades of Canned Pork and Beans for the following reasons:

(1) Canned pork and beans, a popular food among consumers, comprises the major portion of the canned dried bean pack. The current U.S. Standards for Grades of Canned Dried Beans include all types and styles of canned dried beans. The standards are broad in extent and do not cover the attributes of canned pork and beans equitably;

(2) An informal survey indicated that standards for canned pork and beans are desirable; and

(3) There are no other Federal standards for the product.

The proposed standards provided for:

(1) Separate U.S. Standards for Grades of Canned Pork and Beans;

(2) The addition of "safe and suitable" optional ingredients;

(3) Three quality factors which were rated by score points: bean to sauce ratio, absence of defects and character. Color, flavor, odor and similar varietal characteristics were non-scoring quality factors; and

(4) An objective guide for determining the quantity of bean ingredient in a given container—the bean to sauce ratio.

Four consumers submitted comments to the first notice of proposed rulemaking. Two consumers favored the proposal. One consumer was appalled at the Department's continuing effort to police various industries. One consumer suggested that the Department should permit consumers to be self-responsible.

Three canned dried bean processors and the National Canners Association (NCA), a nonprofit trade association, submitted comments on the first notice of proposed rulemaking. A compilation of these comments is as follows:

(1) Endorsed introduction of separate grade standards for canned pork and beans;

(2) Endorsed addition of "safe and suitable" optional ingredients;

(3) Recommended that the allowance for "varieties that blend" be increased to 10 percent for "reasonably similar varietal characteristics";

(4) Opposed any effort to establish a bean to sauce ratio. Comments indicated that the specified range for suitable bean to sauce ratios is too difficult to attain and is not practical. It was suggested that this factor be replaced with the factor of consistency;

(5) Petitioned the Department to establish separate grade standards for "New England Style" baked beans; and

(6) Requested a 90 day extension of time for the comment period.

One comment was received from the Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. The comment deemed that use of dual grade level designations, such as "U.S. Grade A" or "U.S. Fancy", is confusing to the consumer. It recommended that use of the alternative, "U.S. Fancy", be deleted from the standards. Too, the comment argued for standards of fill for canned pork and beans. To acknowledge comments which were submitted, the Department is publishing:

(1) A second notice of proposed rulemaking to establish United States Standards for Grades of Canned Pork and Beans, as well as, elsewhere in this issue of the Federal Register;

(2) A second notice of proposed rulemaking to revise United States Standards for Grades of Canned Dried Beans; and

(3) A first notice of proposed rulemaking to establish United States Standards for Grades of Canned Baked Beans. This proposed rulemaking provides for:

(1) Retention of the 5 percent allowance for "varieties that blend" for "practicaly similar varietal characteristics" and changing the allowance to 10 percent for "reasonably similar varietal characteristics". This would allow canned pork and beans to grade no higher than Grade B if more than 5 percent "varieties that blend" are present in the container;

(2) Replacing the factor of "bean to sauce ratio" with the factor of "consistency". Since the sauce is consumed along with the beans, pork and bean processors formulate their product considering taste appeal as well as the amount of beans which are used in the sauce. Many consumers rely on specific brands for their individual taste preferences. It is not the intent of the Department to standardize manufacturer's pork and bean flavors by restricting bean to sauce ratios to a narrow range. If too few beans are used in the sauce, the consistency may be expected to be thin and the product would be classified as less than Grade A;

(3) Changing the allowance for loose skin, broken and mashed beans from 4 to 5 percent for Grade A; and from 8 to 10 percent for Grade B;

(4) Introduction of separate U.S. Standards for Grades of Canned Baked Beans. "New England Style" baked beans are prepared by a unique process unlike the process for canned dried beans and canned pork and beans; and

(5) Discontinue alternative grade level designations. "U.S. Grade A" and "U.S. Grade B" shall be used to designate the top and second quality levels, respectively.

The Department granted an extension of time for comments on the first notice of proposed rulemaking in the FEDERAL REGISTER of May 7, 1975 (40 FR 19830). The extended comment period ended July 14, 1975.

The proposed standards are as follows:

Sec.

Subpart—United States Standards for Grades of Canned Pork and Beans

AUTHORITY: Agricultural Marketing Act of 1946, Sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624.

§ 52.6441 Product description.

Canned pork and beans (canned dried white beans with pork) is the product prepared from dry mature white beans of the species Phaseolus vulgaris L., with pork or pork fat; and with a packing medium or sauce consisting of water, tomato products, and any other safe and suitable ingredients permissible under the provisions of the Federal Food, Drug, and Cosmetic Act. The product is prepared by washing, soaking, blanching, or other processing except baking. It is packed in hermetically sealed containers and sufficiently processed by heat to assure preservation.

§ 52.6442 Types.

(a) Pea beans (The type as grown in the Great Lakes region known also as Navy beans).

(b) Small white beans (The type as grown in the Pacific coast region, not including Tepary beans).

(c) Flat small white beans (The type as grown in northern Idaho).

(d) Great northern beans.

(e) Other types of white beans (except white lima beans).

§ 52.6443 Grades.

(a) "U.S. Grade A" is the quality of canned pork and beans that has the following attributes:

(1) Practically similar varietal characteristics;

(2) At least a reasonably good consistency;
(3) Practically free from defects;
(4) Good character;
(5) Good flavor;
(6) Good color; and
(7) Totals not less than 90 points when scored in accordance with the scoring system outlined in this subpart.

(b) "U.S. Grade B" is the quality of canned pork and beans that has at least the following attributes:
(1) Reasonably similar varietal characteristics;
(2) Reasonably good consistency;
(3) Reasonably free from defects;
(4) Reasonably good character;
(5) Reasonably good flavor;
(6) Reasonably good color; and
(7) Totals not less than 80 points when scored in accordance with the scoring system outlined in this subart.

(c) "Substandard" is the quality of canned pork and beans that fails to meet the requirements of U.S. Grade B.

§ 52.6444 Sample unit size.

Compliance with requirements for factors of quality is based on a sample unit consisting of the entire contents of one container, irrespective of container size.

§ 52.6445 Determining the grade.

(a) *General.* The grades of canned pork and beans may be determined by considering, in addition to the requirements of the respective grade, the following factors:
(b) *Factors not rated by score points.*
(1) Similar varietal characteristics;
(2) Color; and
(3) Flavor.

(c) *Factors rated by score points.* The relative importance of each factor is expressed numerically on the scale of 100. The maximum number of points that may be given each factor is:

Factors	*Points*
Consistency	20
Absence of defects	40
Character	40
Total Score	100

(d) *Definitions.* (1) Similar varietal characteristics.

(i) "Contrasting varieties" means varieties of dried beans other than those specified in 52.6442 (such as red beans).

(ii) "Varieties that blend" means one or more of the varieties of dried beans specified in 52.6442 other than the predominating variety of white beans (such as pea beans with small white beans).

(iii) "Practically similar varietal characteristics" means that the beans are practically alike in size, shape, color, general, characteristics, and that there may be present not more than 0.5 percent, by weight, of contrasting varieties; and not more than 5 percent, by weight, of varieties that blend.

(iv) "Reasonably similar varietal characteristics" means that the beans are reasonably alike in size, shape, color, general characteristics, and that there may be present not more than 1 percent, by weight, of contrasting varieties; and not more than 10 percent, by weight, of varieties that blend.

(2) "Good color" means that the beans have a color that is bright and reasonably uniform; and that the sauce is reasonably bright and has the distinguishing color characteristics of the addition of tomato products.

(3) "Reasonably good color" means that the beans have a color that is fairly uniform, that may be slightly dull but not off color; and that the sauce may be dull but not off color and may be lacking in the distinguishing color characteristics of the addition of tomato products.

(4) "Good flavor" means that the product has a good, normal flavor and odor, and is free from objectionable flavors and objectionable odors of any kind; and that the flavor of the sauce is rich, distinct and characteristic of the ingredients including but not limited to tomato products.

(5) "Reasonably good flavor" means that the product may be lacking in good flavor and odor, but is free from objectionable flavors and objectionable odors of any kind; and that the flavor of the sauce may be weak.

§ 52.6446 Determining the rating of the factors which are scored.

The essential variations within each factor which is scored are so described that the value is determined for each factor and expressed numerically. The numerical range within each factor which is scored is inclusive (for example, "18 to 20 points" means 18, 19, or 20 points).

§ 52.6447 Consistency.

(a) *Definition.* (1) "Matting" means compaction to the extent that beans cannot be removed from the container without damage or excessive mushiness.

(b) *(A) classification.* Canned pork and beans that have a good consistency may be given a score of 18 to 20 points. "Good consistency" means that the sauce is smooth and is neither grainy nor lumpy; the product is practically free from "matting" and when emptied on a flat surface forms a slightly mounded mass of beans and sauce with not more than a slight separation of liquid.

(c) *(B) classification.* Canned pork and beans that have a reasonably good consistency may be given a score of 16 or 17 points. "Reasonably good consistency" means that the sauce is reasonably smooth and may be slightly grainy or slightly lumpy; the product may have a thick consistency but is reasonably free from "matting" and when emptied on a flat surface may have practically no separation of liquid; or, the product may have a thin consistency with separation of liquid, but it shall not be watery.

(d) *(SStd) classification.* Canned pork and beans that fail to meet the requirements of Grade B may be given a score of 0 to 15 points and shall not be graded above Substandard, regardless of the total score for the product (htis is a limiting rule).

§ 52.6448 Absence of defects.

(a) *General.* Factor of absence of defects refers to the degree of freedom from extraneous vegetable material, loose skin, broken and mashed units, and blemished and seriously blemished units.

(b) *Definitions.* (1) "Loose skin" means a skin or portions of a skin which have become separated from the cotyledons.

(2) "Broken unit" means a cotyledon or portions of a cotyledon which have become separated from a unit; or a unit or portions of a unit with the skin or portions of the skin missing.

(3) "Mashed unit" means a bean that is crushed or flattened to the extent that its appearance is seriously affected.

(4) "Blemished unit" means a bean that is spotted or discolored or otherwise defective to such an extent that its appearance or edibility is materially affected. Beans that have a characteristic darkening around the hilum are not considered blemished units.

(5) "Seriously blemished unit" means a bean affected by discoloration, insect or similar type injury, or otherwise defective to such an extent that its appearance or edibility is seriously affected.

(6) "Extraneous vegetable material" means vegetable material common to the bean plant or other plants that is harmless upon eating and includes but is not limited to, peas (Pisum sativum), lentils (Lens culinaris), field peas (Vigna sinensis), corn and cereal grains.

(7) A "unit" means two cotyledons and a skin.

(c) *(A) classification.* Canned pork and beans that are practically free from defects may be given a score of 36 to 40 points. "Practically free from defects" means that canned pork and beans comply with the requirements in Table I.

(d) *(B) classification.* Canned pork and beans that are reasonably free from defects may be given a score of 32 to 35 points. Canned pork and beans that fall into this classification shall not be graded above "U.S. Grade B", regardless of the total score for the product (this is a limiting rule). "Reasonably free from defects" means that the canned pork and beans comply with the requirements in Table II.

(e) *(SStd) classification.* Canned pork and beans that fail to meet the requirements of Grade B may be given a score of 0 to 31 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

TABLE I.—*Allowances for defects in canned pork and beans—(A) classification*

Defect	Maximum amount of defects permitted in a sample unit—by net weight (percent)	Maximum amount of defects permitted in a sample
Loose skin, broken, and mashed	5	
Blemished and seriously blemished	3	
Seriously blemished	2	
Extraneous vegetable material	(1)	1 piece per 80 oz net weight.

[1] No limit.

TABLE II.—*Allowances for defects in canned pork and beans—(B) classification*

Defect	Maximum amount of defects permitted in a sample unit—by net weight (percent)	Maximum amount of defects permitted in a sample
Loose skin, broken, and mashed	10	
Blemished and seriously blemished	6	
Seriously blemished	4	
Extraneous vegetable material	(1)	1 piece per 20 oz net weight.

[1] No limit.

§ 52.6449 Character.

(a) *General.* The factor of character refers to the degree of freedom from hard units, mushy units, units with tough skins, and from granulation; and to the overall palatability and texture of the beans.

(b) *(A) classification.* Canned pork and beans that have a good character may be given a score of 36 to 40 points. "Good character" means that the beans have a good, typical texture, that may be slightly granular or slightly firm; and that the skins are tender.

(c) *(B) classification.* Canned pork and beans that have a reasonably good character may be given a score of 32 to 35 points. Canned pork and beans that fall into this classification shall not be graded above "U.S. Grade B", regardless of the total score for the product (this is a limiting rule). "Reasonably good character" means that the beans have a reasonably good, typical texture, that the beans may be firm or soft and that the presence of hard and mushy units does not materially affect the eating quality; that the skins may be slightly tough; and that the beans may be granular.

(d) *(SStd) classification.* Canned pork and beans that fail to meet the requirements of Grade B may be given a score of 0 to 31 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 52.6450 Determining the grade of a lot.

The grade of a lot of canned pork and beans covered by these standards is determined by the procedures set forth in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (§§ 52.1 to 52.83).

§ 52.6451 Score sheet for canned pork and beans.

Container size			----
Container code or identification			----
Label			----
Net weight (in ounces)			----
Vacuum (in inches)			----
Type			----
Factors	**Score points**		
Consistency	20	(A) 18-20 (B) 16-17 (SStd.) [1] 0-15	
Absence of defects	40	(A) 36-40 (B) [1] 32-35 (SStd.) [1] 0-31	
Character	40	(A) 36-40 (B) [1] 32-35 (SStd.) [1] 0-31	
Total score	100		
Color—good; reasonably good			----
Flavor—good; reasonably good			----
Similar varietal characteristics—practically; reasonably			----
Grade			----

[1] Indicates limiting rule.

Dated: October 22, 1975.

DONALD E. WILKINSON,
Administrator.

[FR Doc.75-28953 Filed 10-28-75;8:45 am]

[7 CFR Part 981]

[Docket No. AO-214-A5]

ALMONDS GROWN IN CALIFORNIA

Hearing on Proposed Amendment of the Marketing Agreement and Order

Notice is hereby given of a public hearing to be held November 18, 1975, in Room W-1140, 2800 Cottage Way, Sacramento, California beginning at 9:30 a.m., local time, with respect to proposed amendment of the marketing agreement, as amended, and Order No. 981, as amended, regulating the handling of almonds grown in California.

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

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendment, hereinafter set forth, and any appropriate modifications thereof, of the marketing agreement and the order.

The proposed amendment, set forth below, has not received the approval of the Secretary of Agriculture.

Proposed by the Almond Control Board.

1. Revise § 981.4 to read as follows:

§ 981.4 Almonds.

"Almonds" means (unless otherwise specified) all varieties of almonds (except bitter almonds), either shelled or unshelled, grown in the State of California, and for purposes of § 981.41 includes almond shells and hulls.

2. Revise § 981.7 to read as follows:

§ 981.7 Edible kernel.

"Edible kernel" means a kernel, piece or particle of almond kernel that is not inedible.

3. Revise § 981.8 to read as follows:

§ 981.8 Inedible kernel.

"Inedible kernel" means a kernel, piece or particle of almond kernel with any defect scored as serious damage or as damage due to gum, shrivel or brown spot as defined in the United States Standards for Shelled Almonds, or which has embedded dirt not easily removed by washing. This definition of inedible kernel may be modified by the Board with the approval of the Secretary.

4. Revise § 981.13 as follows:

§ 981.13 Handler.

"Handler" means any person handling almonds during any crop year, except that such term shall not include either a grower who sells only almonds of his own production at retail at a roadside stand operated by him, or a person receiving almonds from growers and gleaners and delivering the almonds so received directly to a handler of record with the Board.

5. Revise § 981.20 as follows:

§ 981.20 Handler carryover.

Handler carryover as of any given date means all almonds, wherever located, then held by handlers (whether or not sold) but not including any almond products.

6. Revise § 981.21 as follows:

§ 981.21 Trade demand.

"Trade demand" means the quantity of almonds (kernel weight basis) which commercial distributors and users such as the wholesale, chain store, confectionery, bakery, ice cream, and nut salting trades will acquire from all handlers during a crop year for distribution in United States, Puerto Rico, and the Canal Zone: *Provided*, That for the marketing policy of any crop year, the Board may include with the approval of the Secretary, export outlets for almonds.

7. Amend § 981.22 by changing "Control Board" to "Board", and revising the definition to read as follows:

§ 981.22 Board.

"Board" means the Almond Board of California which is the administrative agency established by this subpart.

8. Revise the center caption preceding § 981.30 to read "ALMOND BOARD OF CALIFORNIA" and delete "Control" wherever it appears in the order.

9. Revise § 981.41(a) to read as follows:

§ 981.41 Research and development.

(a) *General.* The Board, with the approval of the Secretary, may establish or provide for the establishment of projects involving production research, marketing research and development projects,

and marketing promotion including paid advertising, designed to assist, improve, or promote the marketing, distribution, consumption or efficient production of almonds. For purposes of this section, the term "almonds" includes almond shells and hulls. The Board may also provide for crediting the pro rata expense assessment obligations of a handler with such portion of his direct expenditures for such marketing promotion including paid advertising as may be authorized. The expenses of such projects shall be paid from funds collected pursuant to § 981.81(a) or credited pursuant to paragraph (c) of this section.

* * * * *

10. Add a new § 981.42 to read:

§ 981.42 Quality Control.

(a) *Incoming.* Each handler shall cause to be determined, through the inspection agency and at handler expense, the percent of inedible almonds in each variety delivered by each grower and shall report the determinations to the Board. The quantity of inedible almonds in each variety, in excess of two percent of the kernel weight received, shall be separated from other almonds in the course of processing and shall be delivered to the Board or to Board approved crushers, feed manufacturers or feeders. The Board, with the approval of the Secretary, may change this percentage for any crop year and may establish rules and regulations necessary and incidental to the administration of this provision, including the method of determining inedible content and such removal and disposition requirements as will permit full accountability for inedible almonds.

(b) *Outgoing.* For any crop year the Board may establish, with the approval of the Secretary, such grade and inspection requirements applicable to almonds to be handled or to be processed into manufactured items or products, as will contribute to orderly marketing or be in the public interest. In such crop year, no handler shall handle or process almonds into manufactured items or products unless they meet the applicable grades as evidenced by inspection certificates issued by the inspection agency. The Board, with the approval of the Secretary, may establish rules and regulations necessary and incidental to the administration of this paragraph.

11. In conjunction with Proposal No. 10 to add a new § 981.42 pertaining to matters of quality control, including determinations by the inspection agency, the agency is to present testimony on the procedures to be used in those determinations and the estimated costs that may be incurred.

12. Revise § 981.47 as follows:

§ 981.47 Method of establishing salable and reserve percentages.

Whenever the Secretary finds, from the recommendations and supporting information supplied by the Board or from any other available information, that to designate the percentages of almonds during any crop year which shall be salable almonds and reserve almonds would tend to effectuate the declared policy of the act, he shall designate such percentages. Except as provided in § 981.50 the salable and reserve percentages shall each be applied to the kernel weight of almonds received by a handler for his own account during the crop year. In establishing such salable and reserve percentages, the Secretary shall give consideration to the ratio of estimated trade demand (minus the handler carryover at the beginning of the crop year—or following years of no reserve, the handler carryover not committed to export—plus the desirable handler carryover at the end of the crop year) to the estimated production of marketable almonds (all expressed in terms of kernel weight); the recommendation submitted to him by the Board; and such other information as he deems appropriate. The total of the salable and reserve percentages established each crop year shall equal 100 percent.

§ 981.49 [Amended]

13. Amend § 981.49(a) by inserting the word "marketable" before "almonds".

14. Revise § 981.51 to read as follows:

§ 981.51 Requirements for reserve.

Each handler may satisfy his reserve obligations with such almonds and such inspection and certification requirements as are included in the terms of the agency agreement authorized in § 981.67. Any handler not becoming an agent may receive credit by similarly delivering almonds to the Board or its designees. These requirements may be fixed by the Board, with the approval of the Secretary, and from time to time modified, and may include grade requirements for reserve almonds delivered to human consumption outlets.

§ 981.53 [Removed]

15. Delete § 981.53 and make conforming changes in § 981.52. As so revised, § 981.52 reads as follows:

§ 981.52 Holding requirement and delivery.

Each handler shall at all times hold in his possession or under his control, in proper storage for the account of the Board, the quantity of almonds necessary to meet his reserve obligation less: (a) any quantity which was disposed of by him pursuant to § 981.67; and (b) any quantity for which he is otherwise relieved by the Board of responsibility to so hold almonds. Upon demand of the Board reserve almonds shall be delivered to the Board f.o.b. handler's warehouse or point of storage, except that the Board shall not make such demand upon a handler with respect to reserve almonds he has agreed to undertake disposition pursuant to § 981.67. Any handler who does not act as agent for the Board in the disposition of reserve almonds shall be subject to the applicable inspection and certification requirements prescribed by the Board pursuant to § 981.67.

16. Revise § 981.61 as follows:

§ 981.61 Redetermination of kernel weight.

The Board, on the basis of reports by handlers, shall redetermine the kernel weight of almonds received by each handler for his own account during each crop year through each of the following dates: December 31, March 31, and June 30. Such redetermined kernel weight for each handler shall be the basis for computing his reserve obligation for the crop year through such dates, except that adjustment shall be made for almonds on which the obligation has been assumed by another handler. The redetermined kernel weight of each handler's receipts, as of any date during a crop year, shall be his carryover as of that date plus the weight delivered or used in products minus his carryover at the beginning of the crop year and the weight delivered to exempt outlets or which was transferred with another handler bearing the obligations. Weights used in such computations for various classifications of almonds shall be: (a) For unshelled almonds, the kernel weight computed by application of shelling ratios authorized pursuant to § 981.62; (b) for shelled almonds, the net weight; and (c) for shelled almonds used in production of almond products, the weight of such almonds.

17. Revise § 981.62 as follows:

§ 981.62 Varietal shelling ratios for unshelled almonds.

(a) The varietal shelling ratios applicable to unshelled almonds for determination of kernel weight are as follows:

	Percent
Major varieties:	
Nonpareil	60
Merced	60
Thompson	60
Ne plus ultra	50
Mission	40
Peerless	35
Minor varieties:	
Jordanolo	60
Kaperial	60
Bigelow	55
Harpareil	55
Eureka	54
Baker	53
Trembath	53
IXL	50
Long IXL	50
Ballico	50
Davey	50
Ruby	50
Smith (Smith's XL)	48
Lewelling (lewelling's prolific)	47
Walton	41
Drake	40
Emerald	40
Ripon	40
Standard	38
Sultana	36
Tarragona	33
Hardshell	30
Bidwell	30

* * * * *

18. Revise § 981.81(b) and (c) to read as follows:

§ 981.81 Assessment.

* * * * *

(b) *Refunds.* Any money collected as assessment for either the administrative (maintenance and functioning) or re-

search activities of the Board and not used for the expenses of the applicable crop year, may be used in paying the Board expenses of the first four months of the succeeding crop year.

However, no later than the end of the fifth month the excess money of the prior year shall be refunded to handlers except for such amount as is retained to cause the administrative-research portion of the operating reserve to be maintained at permitted levels. Any money collected as advertising assessments of a crop year may be used for the Board promotion expenses of the succeeding crop year, and any excess at the end of such year shall be retained in the promotion portion of the operating reserve. Funds in excess of permitted levels in each portion of the operating reserve shall be refunded to handlers. Each handler's share of a refund shall be the amount by which his payment of assessments, including in the case of a promotion refund his creditable expenditures, exceeded his pro rata share of the respective area of Board expenses. In lieu of a refund, each handler may have the amount credited to his assessment obligation of the new crop year.

(c) *Reserves.* The Board may maintain an operating reserve fund consisting of an administrative-research portion and one for marketing promotion. These shall not exceed approximately six month's budget for the activity area or such lower amount as the Board may establish with the approval of the Secretary. To the extent that funds from current assessments are inadequate, funds in such reserve may be used for the authorized activities of a crop year. Funds so used shall be replaced to the extent practicable from assessments subsequently collected for the crop year.

19. Revise § 981.31(d) to read as follows:

§ 981.31 Membership representation.

* * * * *

(d) Those growers who market their almonds through other than cooperative handlers with one member and an alternate from the growing areas of the following counties: Butte, Colusa, Glenn, Sacramento, Solano, Sutter, Tehama, Yolo and Yuba. Another member and alternate to be elected from the district comprised of the following counties: Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, Tulare and Los Angeles.

* * * * *

20. Revise § 981.30 to read as follows:

§ 981.30 Establishment.

(a) A Control Board of twelve members, with an alternate member for each, is hereby established. Six of said members and their alternates shall represent handlers and six shall represent growers. Of the grower members and their alternates, two each shall represent each of the following districts within the area of production:

(1) The Northern District, comprised of Marin, Sonoma, Napa, Solano, Sacramento, El Dorado, and all other California counties lying north thereof;

(2) The Southern District, comprised of Monterey, San Benito, Fresno, Inyo, and all other California counties lying south thereof;

(3) The Central District, comprised of all remaining California counties.

(b) Whenever these districts fail to provide equitable representation, the Secretary, on the basis of a recommendation of the Board or other information, may change their boundaries. In recommending changes the Board shall consider shifts in almond planting, number of growers in each district, and other relevant factors.

21. Revise § 981.31 Membership representation, to read as follows:

§ 981.31 Membership representation.

Members and their alternates shall be selected from nominees submitted by the groups which they represent or from among other qualified persons belonging to such groups. Each grower member and alternate must be at the time of his selection and during his term of office a grower within the district for which selected and may not be engaged in the handling of almonds either in a proprietary capacity or as director, officer, or employer; except that he may be a member of a cooperative marketing association. Each handler member and alternate must be a handler or a director, officer, or employee of a handler.

22. Revise § 981.32 to read as follows:

§ 981.32 Nominations.

(a) Method of selection. Nominees for the respective member and alternate member positions shall be chosen by ballot as provided herein. Their names shall be submitted by the Board to the Secretary on or before May 20 of each year together with such related information as he may require. If a nomination for any board member or alternate is not received by the Secretary on or before May 20, he may select such member or alternate from persons belonging to the group to be represented, without nomination.

(b) Selection of grower nominees. Names of candidates for nomination by growers in the various districts shall be obtained at meetings convened by the Board. Each candidate named must receive a majority vote of the growers present and voting at a meeting. Following such meetings the Board shall prepare a ballot for each of the districts, containing (1) the names of the candidates for each such district and (2) provision for write-in candidates. The appropriate ballot shall be mailed to each grower of record in each district. The Board shall prescribe rules and regulations, with the approval of the Secretary, which shall govern the voting procedure (including the casting of ballots by mail addressed to the Board) and the tabulation of votes, and which may modify the mode of selection of alternates. A grower may vote only in a district in which he is currently a grower; if qualified to vote in more than one district he must select that within which he will vote. Each grower shall vote for two candidates. On his ballot he shall enter the quantity of almonds which during the then current crop year he has produced and delivered to a handler prior to April 1. The two nominees in each district shall be the person who receives the greatest number of individual votes and the person whose votes represent the greatest production tonnage. Alternate member nominees shall be those receiving the second highest vote in each category. Distribution of ballots shall be announced by press releases, furnishing pertinent information on balloting, issued by the Board through newspapers and other publications having general circulation in the almond producing areas.

(c) Selection of handler nominees. Names of nominee candidates for member and alternate member positions shall be solicited from handlers by the Board. The Board shall mail to each handler of record a ballot containing all such names. Handlers shall vote for members and alternate members separately. Each handler's votes shall be weighted by the quantity of almonds (kernel weight basis computed to the nearest whole ton) handled for his own account through March 31 of the crop year in which nominations are made. A handler may divide his vote among candidates in each category (not in excess of six in each), assigning to each vote such portion of the weighting available to him as he may choose. The nominees in each category shall be those six persons receiving the highest weighted votes therefor, and shall be paired according to their vote ranking in each category.

23. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Sacramento Marketing Field Office, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, 2800 Cottage Way, Room E-2713, Sacramento, CA 95825, or from the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

Signed at Washington, D.C., on October 23, 1975.

DONALD E. WILKINSON,
Administrator.

[FR Doc.75-29028 Filed 10-28-75;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

[CM-5/118]

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Notice of Meeting

The working group on radio communications of the Subcommitte on Safety of Life at Sea, will hold open meetings on Thusrday, November 20, and Thursday, December 18, 1975, in Room 847 of the Federal Communications Commission, 1919 M Street, NW., Washington, D.C.

The purpose of the meetings will be to discuss the maritime distress system, training and qualifications of radio officers and radio operators, operational requirements for Emergency Position Indicating Radio Beacons (EPIRBs), international coordination of promulgating national warnings to shipping, and operational requirements for portable and fixed radio equipment.

Requests for further information on the meeting should be directed to Lt. F. N. Wilder, United States Coast Guard. He may be reached by telephone on (area code 202) 426-1345.

The Chairman will entertain comments from the public as time permits.

RICHARD K. BANK,
Chairman,
Shipping Coordinating Committee.

OCTOBER 20, 1975.

[FR Doc.75-28984 Filed 10-28-75;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 75-265]

INSTRUMENTS OF INTERNATIONAL TRAFFIC

Certain Plastic Containers Used for the Transportation of Berries Designated as Instruments of International Traffic

OCTOBER 22, 1975.

It has been established to the satisfaction of the U.S. Customs Service that containers designed to transport berries, weighing approximately 3 pounds, composed of plastic with solid sides and perforated bottoms and measuring 15 inches in length, 15 inches in width, and 7 inches in height, are substantial, suitable for and capable of repeated use, and are used in significant numbers in international traffic.

Under the authority of § 10.41a(c)(1), Customs Regulations, I hereby designate the above-described containers as "instruments of international traffic" within the meaning of section 322(a), Tariff Act of 1930, as amended. These containers may be released under the procedures provided for in § 10.41a, Customs Regulations.

LEONARD LEHMAN,
Assistant Commissioner,
Regulations and Rulings.

[FR Doc.75-29013 Filed 10-28-75;8:45 am]

Office of the Secretary

INCOME TAX TREATY

United States and India Preliminary Discussions

The Treasury Department today announced that representatives of the United States and India held preliminary discussions in Washington October 16 and 17 to consider entering into an income tax treaty. Representatives of the two countries plan to meet in India in the Spring of 1976 to begin formal discussions of a proposed bilateral income tax treaty.

At present there is no income tax convention between the two countries.

The proposed treaty is intended to prevent double taxation and to facilitate trade and investment between the two countries. It will be concerned with the tax treatment of income of individuals and companies from business, investment, and personal services, and the procedures for administering the provisions of the treaty.

The "model" income tax treaty developed by the Organization for Economic Cooperation and Development will be taken into account along with recent U.S. treaties with other countries, such as the treaty with Norway, which entered into force in 1972 and the treaties with Trinidad and Tobago and Japan, which entered into force in 1971 and 1972, respectively.

Persons wishing to make comments and suggestions about the discussion to be held with representatives of India should submit their views in writing before December 1, 1975 to Charles M. Walker, Assistant Secretary of the Treasury, U.S. Treasury Department, Washington, D.C. 20220.

[SEAL] ROBERT J. PATRICK, Jr.,
International Tax Counsel,
Office of Tax Analysis.

[FR Doc.75-29011 Filed 10-28-75;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

OCTOBER 20, 1975.

The USAF Scientific Advisory Board Aeromedical-Biosciences Panel will hold meetings on November 17, 1975 from 8:30 a.m. to 5 p.m. and on November 18, 1975 from 8:30 a.m. to 11:30 a.m., at Headquarters Aerospace Medical Division (AMD), AMD Conference Room, Brooks AFB, Texas.

The Panel will receive classified briefings and will hold classified and proprietary discussions on current and future AMD programs. The agenda includes informational briefings in the Occupational Safety and Health Act (OSHA) area. This session will be held from 1 p.m. to 5 p.m. on November 17, 1975 and will be open to the public.

The meetings concern matters listed in Section 552(b) of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof, and that accordingly the meetings will be closed to the public with the exceptions noted above.

For further information contact the SAB Secretariat at (202) 697-8845.

JAMES L. ELMER,
Major, USAF, Executive,
Directorate of Administration.

[FR Doc.75-28908 Filed 10-28-75;8:45 am]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

NATIONAL ADVISORY COMMITTEE ON CRIMINAL JUSTICE STANDARDS AND GOALS

Notice of Meeting

This is to provide notice of meeting of the Disorders and Terrorism Task Force on Criminal Justice Standards and Goals.

The Disorders and Terrorism Task Force will meet on November 16, 17, and 18, 1975 at the Airport Marina Hotel, 8601 Lincoln Blvd., Los Angeles, California 90045. The meeting will convene on Sunday afternoon at 2 p.m.

On Monday, November 17, the Task Force will be guests of the Los Angeles Police Department and will be viewing the regularly scheduled disorders training session of the Los Angeles Police Department. The members will reconvene

at the Airport Marina Hotel for a meeting on Monday at 4 p.m.

The meeting Tuesday, November 18, will begin at 8:30 a.m. The subject of all formal business sessions will consist of reviewing proposed standards and commentaries on issues of disorders and terrorism. All business sessions will be open to the public and the public is invited to attend.

For further information, contact William T. Archey, Director, Policy Analysis Division, Office of Planning and Management, 633 Indiana Avenue, N.W., Washington, D.C.

GERALD H. YAMADA,
Attorney-Advisor,
Office of General Counsel.

[FR Doc.75-29156 Filed 10-28-75;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA 2398]

CALIFORNIA

Notice of Proposed Withdrawal and Reservation of Lands

OCTOBER 20, 1975.

The Forest Service, U.S. Department of Agriculture, has filed application CA 2398, for the withdrawal of the land described below, from appropriation under the Mining laws (30 U.S.C. Ch. 2), but not from leasing under the Mineral Leasing Laws, subject to valid existing rights for addition to the Tahoe National Forest:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 17 N., R. 11 E.,
Section 30, Lot 5;
Section 31, Lot 44 (M.S. C-10).

The area described aggregates 83.26 acres in Nevada County, California.

The land consists of two isolated parcels of public land completely surrounded by Tahoe National Forest. The applicant desires that the land be added to the National Forest in order to promote the efficient management of land and to effect national resource conservation in the area.

On or before December 1, 1975, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, U.S. Department of the Interior, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

The Department's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. Adjustments will be made as necessary to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior, who will determine whether or not the lands will be withdrawn as requested.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

WALTER F. HOLMES,
Chief, Branch of Lands
and Minerals Operations.

[FR Doc.75-28975 Filed 10-28-75;8:45 am]

[NM 26721]

NEW MEXICO

Notice of Application

OCTOBER 20, 1975.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½ inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 9 W.,
Sec. 24, Lots 10 and 15.

This pipeline will convey natural gas across .178 mile of national resource lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3550 Pan American Freeway, NE, Albuquerque, NM 87107.

FRED E. PADILLA,
Chief, Branch of Lands
and Minerals Operations.

[FR Doc.75-28976 Filed 10-28-75;8:45 am]

[Wyoming 52870]

WYOMING

Notice of Application

OCTOBER 21, 1975.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Colorado Interstate Corporation has applied for a natural gas pipeline right-of-way across the following lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 21 N., R. 94 W.,
Sec. 8;
Sec. 20.

The pipeline will convey natural gas from the Siberia Ridge Unit #6-4 well in sec. 4, to an existing pipeline in sec. 29, all in T. 21 N., R. 94 W., in Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should send their name and address to the District Manager, Bureau of Land Management, P.O. Box 670, Rawlins, Wyoming 82301.

GLENNA M. LANE,
Acting Chief, Branch of Lands
and Minerals Operations.

[FR Doc.75-28977 Filed 10-28-75;8:45 am]

[Wyoming 52858]

WYOMING

Notice of Application

OCTOBER 21, 1975.

Notice is hereby that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Kansas-Nebraska Natural Gas Company, Inc., has applied for a natural gas pipeline right-of-way across the following townships:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 27 N., R. 92 W.,
T. 27 N., R. 93 W.

The pipeline will convey natural gas from the May Petroleum Federal #1-33 well in sec. 33, T. 27 N., R. 93 W., to an existing pipeline in sec. 4, T. 27 N., R. 92 W., in Fremont County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should send their name and address to the District Manager, Bureau of Land Management, P.O. Box 670, Rawlins, Wyoming 82301.

GLENNA M. LANE,
Acting Chief, Branch of Lands
and Minerals Operations.

[FR Doc.75-28978 Filed 10-28-75;8:45 am]

FOLSOM DISTRICT MULTIPLE USE ADVISORY BOARD

Notice of Meeting

Notice is hereby given that the Folsom District Multiple Use Advisory Board of the Bureau of Land Management will meet in the Folsom District Office, 63 Natoma Street, Folsom, California on December 5, 1975, at 10 a.m.

The agenda for the meeting will include a discussion of the Board's charter and responsibilities, organization of the Board and election of officers, a summary presentation of on-going Bureau programs and responsibilities, a status report on each resource program in the District and presentation of the Board's recommendations and advice to the District Manager concerning any of the resource programs in the District.

The meeting is open to the public. Time will be made available beginning at 3 p.m.

for brief statements by members of the public. Such statements should be limited to matters set forth in the agenda. Those wishing to make oral statements should inform the District Manager at the address listed below. Written statements may be filed for the Board's consideration by submitting them at the meeting or mailing in advance to the Bureau of Land Management at the address listed below.

Further information concerning the meeting may be obtained from Alan P. Thomson, District Manager, Bureau of Land Management, 63 Natoma Street, Folsom, California 95630. Telephone: (916) 985-4474.

Minutes of the meeting will be available at the Folsom District Office for public inspection and copying thirty days after the meeting.

ALAN P. THOMSON,
District Manager.

[FR Doc.75-28972 Filed 10-28-75;8:45 am]

RIVERSIDE DISTRICT MULTIPLE USE ADVISORY BOARD

Notice of Meeting

OCTOBER 20, 1975.

Notice is hereby given that the Riverside California District Multiple Use Advisory Board will hold its first meeting December 11, and 12, 1975, at the Holiday Inn, 300 W. Palmdale Blvd., Palmdale, CA.

The agenda will include organizing the board, consideration of operating procedures, formation of committees and orientation.

On December 12, 1975, the board will meet in joint session with the Bakersfield California District Multiple Use Advisory Board for a briefing on the Draft Management Framework Plan for the El Paso-Red Mountain Resource Areas.

The meeting will be open to the public. Time will be available for a limited number of brief statements by members of the public. Those wishing to make oral statements should notify the District Manager, Riverside District, 1695 Spruce St., Riverside, CA 92507, prior to the meeting. Any interested person may file a written statement with the board for its consideration. Written statements may be submitted at the meeting or mailed to the Riverside District Manager at the above address.

Further information regarding this meeting may be obtained from Gordon W. Flint, Public Affairs Officer, Riverside District Office, Bureau of Land Management, Riverside, California at (714) 787-1462. Minutes of the meeting will be available for public inspection 30 days after the meeting at the Riverside District Office, Bureau of Land Management, 1695 Spruce St., Riverside, CA 92507.

DELMAR D. VAIL,
District Manager.

[FR Doc.75-28974 Filed 10-28-75;8:45 am]

STEERING COMMITTEE, NATIONAL ADVISORY BOARD

Notice of Meeting

OCTOBER 21, 1975.

Notice is hereby given that a seven-member steering committee of the National Advisory Board, Bureau of Land Management, will meet Friday, December 5, 1975 in Denver, Colorado. The meeting will be held from 8 a.m. to 4 p.m. in room 708 of the Colorado State Office, Bureau of Land Management, Colorado State Bank Building, 1600 Broadway, Denver, Colorado. The Federal Representative will be Mr. James W. Monroe, Assistant Director, Bureau of Land Management, or his authorized representative.

The committee will consider and make recommendations concerning policy and program issues to be addressed by the National Advisory Board, as well as a time and place for the next meeting of the Board. Additionally, ad hoc committees of members of the Board will be formed to study and develop recommendations on selected issues for future consideration by the full Board.

The meeting will be open to the public. Time will be made available from 9 to 10 a.m. for brief statements by members of the public. Such statements must not exceed ten minutes, and be limited in content to suggested topics or issues for consideration by the National Advisory Board. Additionally, such statements should be reduced to writing and at least two copies filed with the committee chairman at the meeting. Those wishing to make an oral statement should notify the Colorado State Director, Bureau of Land Management, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, before the close of business Wednesday, December 3, 1975. Any interested person may file a written statement concerning suggested topics for Board consideration at the meeing or by mail to the Director (230), Bureau of Land Management, Washington, D.C. 20240.

Further information concerning the meeting may be obtained from Mr. G. C. Hinton, Public Affairs Officer, Bureau of Land Management, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202. His telephone number is (303) 837-4481.

FRANK A. EDWARDS,
Acting Associate Director.

[FR Doc.75-28973 Filed 10-28-75;8:45 am]

REDDING DISTRICT ADVISORY BOARD

Notice of Meeting

Notice is hereby given that the Redding District Multiple Use Advisory Board of the Bureau of Land Management will meet at the Hilton Inn, Redding, California, December 15th, 16th, 1975. The meeting will be devoted to the orientation of the newly formed Board to Redding District's multiple use management programs of the National Resource Lands. The first day of the meeting, December 15, will involve a field examination of the District's major resource programs. The field trip will commence at 9 a.m. from the Hilton Inn parking lot. Members of the public wishing to participate in the field trip will have to furnish their own transportation.

On the morning of December 16th, a meeting will be held at 9 a.m. for the purpose of presenting the following topics: District Manager's welcome and introduction; Roles of the District Advisory Board under the Federal Advisory Committee Act and new regulations; Election of Chairman and Vice Chairman, and Redding District program orientation.

The meeting will be open to the public. Time will be made available beginning at 11 a.m. on Tuesday, December 16th for brief statements by members of the public. Such statements should be limited to matters set forth in the agenda. Those wishing to make an oral statement on agenda topics should notify the Redding District Manager, Bureau of Land Management, 2460 Athens Avenue, Redding, California 96001, by close of business December 3, 1975. Any interested person or organization may file a written statement with the board for its consideration. Such statements may be submitted at the meeting or mailed to the Redding District Manager, Bureau of Land Management, 2460 Athens Avenue, Redding, California 96001. Further information concerning the meeting may be obtained from Mr. Art Derby, Public Affairs Officer, Bureau of Land Management, 2460 Athens Avenue, Redding, California 96001. His telephone number is (916) 246-5325.

STANLEY D. BUTZER,
Redding District Manager.

[FR Doc.75-28909 Filed 10-28-75;8:45 am]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant:

National Park Service, Hawaii Volcanoes National Park, Hawaii 96718, G. Bryan Harry, Superintendent

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE
LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED: Permit is needed for research on status, habitat needs and competition with non-native species and other inimical factors threatening species survival; for life history studies; and for programs of propagation research preserving gene pools for long term releases as restoration of park habitats progresses; and for nutritional, physiological and pathological studies pertinent to care and perpetuation of caged birds.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
National Park Service
Hawaii Volcanoes National Park
Hawaii 96718
(808) 967-7311

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING
☐ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
National Park Service
U. S. Fish and Wildlife Service
Hawaii State Division of Fish and Game
University of Hawaii

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Federal managing Agency and custodian of natural resources, of which many are endangered or threatened, of Hawaii Volcanoes National Park.

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. G. Bryan Harry, Superintendent; (808) 967-7311

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Hawaii Volcanoes National Park, Hawaii.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit numbers)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☒ NO
(If yes, list jurisdictions and type of documents)

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF $ N. A.

10. DESIRED EFFECTIVE DATE
1 September 1975

11. DURATION NEEDED
Five years

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR [illegible]) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (in ink): Bryan Harry
DATE: 7/17/75

Current research management programs involve caged Hawaiian geese (nene) and crows (alala). Two pinioned adult nene, 14 pinioned sub adults and four free flying young (20 birds total) are presently in captivity in three enclosures of two to four acres in size. The enclosures have been constructed in lowland areas of the Park in regions of former nene distribution. Young nene will be permitted to fly from the enclosure in anticipation of establishing wild, viable, lowland populations. The nene lowland restoration program is a NPS project assisted in by the Fish and Wildlife Service and the Hawaii State Division of Fish and Game.

Three young adult alala (sex unknown) are presently confined in an aviary for propagation and life history research. Two of the three may have formed a pair bond with the first nest expected in the Spring of 1976. All young will be kept in captivity for preservation of gene pools (only 40 to 50 living birds in the wild) until and if habitat restoration in some far future date is substantial enough to release caged birds back into the wild. The alala program is a Fish and Wildlife Service project assisted in by NPS and the Hawaii State Division of Fish and Game.

Similar projects to the above are planned for future years on endangered birds numbered 6 through 9 in item #11 of this permit application. Several breeding pairs of each species will be caged in aviaries for study on life history, food and habitat requirements with ultimate objectives being to propagate birds for eventual releases following habitat recovery and/or restoration.

Researchers and/or managers on the Applicant's staff to be covered by the Permit are James K. Baker, Research Scientist, and Donald W. Reeser, Management Ecologist, and other employees as may be assigned by the Superintendent under the direct supervision of Messrs. Baker and Reeser in the research and/or management of endangered and/or threatened species.

It is also essential during certain portions of the research and/or management programs of Messrs. Baker and Reeser that the Applicant receive assistance from persons not administratively within the staffing of Hawaii Volcanoes National Park. This group on request for assistance would provide diagnostic and consultative services, and/or surveys and specialized investigations of the endangered and/or threatened species in the wild. For captive specimens such services would be nutritional, physiological, pathological and behavioral aspects of animal biology concerned with maintaining the health, comfort and productivity of live specimens held in confinement.

The following are involved in this assistance:

(1) Research and consultative assistance from the National Park Service Cooperative Resources Study Unit of the University of Hawaii under Dr. Maxwell Doty and other personnel working directly with the Cooperative Unit;

(2) Research and consultative assistance from the Hawaii State Division of Fish and Game, Hilo, Hawaii under Mr. Ernest Kosaka and other personnel working directly with Mr. Kosaka;

(3) Research and consultative assistance from the U.S. Fish and Wildlife Service, Hawaii under Messrs. Winston Banko and Gene Kridler and other personnel working directly under Messrs. Banko and Kridler; and

(4) Diagnostic and consultative services from the Hawaii State Department of Agriculture under Dr. Charles B. Webster, D.V.M.

6. N. A.

7. I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in Sub-chapter B of Chapter I of Title 50, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001.

8. Desired effective date of Permit is 1 September 1975.

9. Date: July 17, 1975.

10. Signature: Bryan Harry.

11. Type of permit for which application is being made: 50 CFR 17.23, zoological, educational, scientific or propagation. Wildlife species and races to be covered by this permit:

(1) Hawaiian dark-rumped petrel, *Pterodroma phaeopygia sandwichensis*.
(2) Newell's manx shearwater, *Puffinus puffinus newelli*.
(3) Hawaiian goose (nene), *Branta sandvicensis*.
(4) Hawaiian hawk, *Buteo solitarius*.
(5) Hawaiian crow, *Corvus tropicus*.
(6) Hawaiian akepa, *Loxops coccinea coccinea*.
(7) Akiapolaau, *Hemignathus wilsoni*.
(8) Ou, *Psittirostra psittacea*.
(9) Hawaii creeper, *Loxops maculata mana*.
(10) Hawaiian hoary bat, *Lasiurus cinereus semotus*.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's officie in Suite 600, 1612 K

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received within 30 days of the date of publication will be considered.

Dated: October 22, 1975.

C. R. BAVIN,
Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.75-28863 Filed 10-28-75;8:45 am]

Geological Survey

KNOWN GEOTHERMAL RESOURCES AREA

Gerlach, Nevada

Pursuant to the authority vested in the Secretary of the Interior by Sec. 21 (a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, Geological Survey Manual 220.2.3, and Conservation Division Supplement (Geological Survey Manual) 220.2.1 G, the following described lands are hereby defined as an addition to the Gerlach Known Geothermal Resources Area, effective October 1, 1974:

(28) NEVADA

GERLACH KNOWN GEOTHERMAL RESOURCES AREA MT. DIABLO MERIDIAN, NEVADA

T. 31 N., R. 23 E.,
Secs. 3 through 5;
Sec. 8 all.
T. 32 N., R. 23 .,
Secs. 1 and 2;
Secs. 12 and 18;
Secs. 24 through 29;
Secs. 32 through 36.
T. 32 N., R. 24 E.,
Sec. 6 all.
T. 33 N., R. 23 E.,
Secs. 25 and 26;
Secs. 35 and 36.
T. 33 N., R. 24 E.,
Secs. 30 and 31.

The area described aggregates 12,353.60
The area described aggregates 17,353.60

Dated: October 6, 1975.

DWAYNE E. HULL,
Acting Conservation Manager,
Western Region.

[FR Doc.75-28980 Filed 10-28-75;8:45 am]

KNOWN GEOTHERMAL RESOURCES AREA

Gerlach Northeast Known Geothermal Resources Area

Pursuant to the authority vested in the Secretary of the Interior by Sec. 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, Geological Survey Manual 220.2.3, and Conservation Division Supplement (Geological Survey Manual) 220.2.1 G, the following described lands are hereby defined as a known geothermal resources area, effective October 1, 1974.

(28) NEVADA

GERLACH NORTHEAST KNOWN GEOTHERMAL RESOURCES AREA MT. DIABLO MERIDIAN, NEVADA

T. 33 N., R. 24 E.,
Secs. 2 through 5.
T. 33½ N., R. 24 E.,
Secs. 25 through 29;
Secs. 32 through 36.
T. 34 N., R. 24 E.,
Secs. 35 and 36.

The area described aggregates 7,971 acres, more or less.

Dated: October 7, 1975.

DWAYNE E. HULL,
Acting Conservation Manager,
Western Region.

[FR Doc.75-28979 Filed 10-28-75;8:45 am]

KNOWN GEOTHERMAL RESOURCES AREA

Randsburg—San Bernardino County, Calif.

Pursuant to the authority vested in the Secretary of the Interior by Sec. 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, Geological Survey Manual 220.2.3, and Conservation Division Supplement (Geological Survey Manual) 220.2.1 G, the following described lands are hereby defined as a known geothermal resources area, effective February 1, 1974.

(5) CALIFORNIA

RANDSBURG KNOWN GEOTHERMAL RESOURCES AREA, SAN BERNARDINO COUNTY, MT. DIABLO MERIDIAN, CALIFORNIA

T. 29 S., R. 41 E.,
Secs. 14, 22 through 27, 34, 35 and 36.
T. 29 S., R. 42 E.,
Secs. 18, 19, 20, 29 through 33.
T. 30 S., R. 42 E.,
Secs. 5 and 6.

The area described aggregates 12,880 acres, more or less.

Dated: October 7, 1975.

DWAYNE E. HULL,
Acting Conservation Manager,
Western Region.

[FR Doc.75-28982 Filed 10-28-75;8:45 am]

KNOWN GEOTHERMAL RESOURCES AREA

Silver Peak, Nevada

Pursuant to the authority vested in the Secretary of the Interior by Sec. 21 (a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, Geological Survey Manual 220.2.3, and Conservation Division Supplement (Geological Survey Manual 220.2.1 G, the following described lands are hereby defined as a known geothermal resources area, effective February 1, 1974.

(28) NEVADA

SILVER PEAK KNOWN GEOTHERMAL RESOURCES AREA, MT. DIABLO MERIDIAN, NEVADA

T. 2 S., R. 39 E.,
Secs. 2, 3, 10, 11, 14, 15, 22, 23.

The above area aggregates 5,117.08 acres (2,071.69 hectares), more or less.

Dated: October 3, 1975.

WILLARD C. GERE,
Conservation Manager,
Western Region.

[FR Doc.75-28981 Filed 10-28-75;8:45 am]

Office of the Secretary

[INT FES 75-89]

PROPOSED MINGO WILDERNESS AREA

Availability of Final 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 final environmental statement for the Proposed Mingo Wilderness Area, Wayne and Stoddard Counties, Missouri.

The proposal recommends that 1,700 acres of the Mingo National Wildlife Refuge, located in Wayne and Stoddard Counties, Missouri, be designated as wilderness within the National Wilderness Preservation System.

Copies of the final statement are available for inspection at the following locations:

Regional Director, U.S. Fish and Wildlife Service, Denver Service Center, Denver, Colorado 80225.
Refuge Manager, Mingo National Wildlife Refuge, Rural Route 1, Box 9A, Puxico, Missouri 63960.
U.S. Fish and Wildlife Service, Division of Wildlife Refuges, Room 2280, 18th & C Streets, NW., Washington, D.C. 20240.

Single copies may be obtained by writing the Environmental Impact Statement Coordinator, Division of Wildlife Refuges, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Dated: October 21, 1975.

STANLEY D. DOREMUS,
Deputy Assistant
Secretary of the Interior.

[FR Doc.75-28910 Filed 10-28-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

MARKET NEWS SYSTEM

General Statement of Basis, Purpose and Availability of an Automated Message Switcher

Pursuant to the Organic Act of the U.S. Department of Agriculture (R.S. 520; 7 U.S.C. 2201), the Cotton Statistics and Estimates Act (50 Stat. 62; 7 U.S.C. 473b), section 9 of the Tobacco Inspection Act (§ 9, 49 Stat. 733; 7 U.S.C. 511h), and paragraphs (g), (k), and (n) of section 203 of the Agricultural Marketing Act of 1946 (§ 203, 60 Stat. 1087; 7 U.S.C. 1622(g), (k), (n)), the Secretary of Agriculture has the authority and the duty to "acquire and to diffuse among the people of the United States useful information on subjects connected with agriculture, in the most general and comprehensive sense of that word," including marketing reports and other items of interest to the agricultural community, and for the benefit of the general public by the most expeditious means possible.

On August 1, 1963, private direct extension connections were implemented to the USDA leased wire circuits, and these "drops" have been operative continuously

since that date. Developments in technology now make it possible for newspapers, radio and television stations, commercial firms, cooperatives, and other interested persons, to obtain a link up connection to the Market News System of the Agricultural Marketing Service through an individual switcher ("port") provided by the Department.

On August 20, 1975, there was published in the FEDERAL REGISTER (40 FR 36395) a notice of proposal to permit the utilization of an automated message switcher. Four written requests and twelve telephonic requests for further information concerning the proposed automated message switcher were received. These queries essentially involved the availability, the cost, and information to be carried over the proposed message switcher. Pursuant to two written requests and three telephonic requests, the Agricultural Marketing Service sent out partial daily runs of information carried over the Market News System. The information transmitted by the Market News System includes market reports on cotton, fruits, vegetables, dairy and poultry products, livestock, meat, grain, feeds, tobacco, and other agricultural products. The reports include such matters as market supplies, demand, activity, prices, and trends.

All comments submitted pursuant to the notice published in the FEDERAL REGISTER on August 20, 1975, and all other data, views, and arguments brought to the attention of the Department have been carefully considered, and the utilization of the automated message switcher is hereby adopted. Those persons interested in obtaining permission to utilize the automated message switcher should contact Mr. Donald Wilson, Head, Communications Section, Communications and Operations Branch, Administrative Services Division, Agricultural Marketing Service, United States Department of Agriculture, Room 0092, South Building, Washington, D.C. 20250. The availability of the automated message switcher shall become effective immediately.

Done at Washington, D.C., this 23rd day of October, 1975.

DONALD E. WILKINSON,
Administrator, Agricultural Marketing Service.

[FR Doc.75-29029 Filed 10-28-75;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

CLARK UNIVERSITY

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 (40 FR 12253 et seq, 15 CFR 701, 1975).

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: 76-00040-90-77030. Applicant: Clark University, 950 Main St., Worcester, MA 01610. Article: Coherent CPS-2 NMR Pulse Spectrometer. Manufacturer: Spin Lock Electronics Ltd., Canada. Intended use of article: The article is intended to be used in general pulsed nuclear magnetic resonance experiments to study spin-spin and spin-lattice relaxation times and resonance frequencies of most liquids and solids that contain hydrogen or fluorine nuclei. In addition, the article will be used in the following courses: (1) 119.2 Physical Instrumentation Laboratory—an introduction to modern physical research instrumentation emphasizing measurements on fundamental particles, such as protons, muons, gamma rays, electrons, and positrons, and (2) 219.2 Physical Instrumentation Laboratory—a course the same as Physics 119.2 except that interpretation of experiments must be at the advanced undergraduate and beginning graduate level.

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 provides the specification of a short pulse width (1 to 3 microseconds). The National Bureau of Standards (NBS) advises in its memorandum dated October 16, 1975 that the specification described above is pertinent to the applicant's intended purposes. NBS further advises that it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended purposes.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.75-28986 Filed 10-28-75;8:45 am]

INDIANA UNIVERSITY

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 (40 FR 12253 et seq, 15 CFR 701, 1975).

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: 75-00322-33-46040. Applicant: Indiana University, Purchasing Department, 1101 East 17th Street, Bloomington, Indiana 47401. Article: Electron Microscope, Model EM 201C and Plate Camera. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: The article is intended to be used for investigation of cytoplasmic contents and cell surface specializations in plastic thin sections of nerve cells. Studies will be carried out to obtain precise quantitative data concerning the i.) geometric relationships between neurofilaments and adjacent structure and ii.) the dimensions of gaps separating cell membranes at various sites. Maturational and experimental studies have the objective of obtaining similarly precise data in order to understand basic mechanism of intracellular transport and cell surface adhesion and interaction.

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 equipped with a eucentric goniometer stage and has a specified resolving power of 5A. At the time the foreign article was ordered the most closely comparable domestic instrument was the Model EMU-4C available from the Adam David Company. The Department of Health, Education, and Welfare (HEW) advised in its memorandum dated April 3, 1975 that the eucentric goniometer stage of the article is pertinent to the applicant's intended purposes. HEW further advises that the EMU-4C does not have a scientifically equivalent eucentric goniometer stage. We, therefore, find that EMU-4C is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.75-28987 Filed 10-28-75;8:45 am]

National Bureau of Standards

INSTANT NONFAT DRY MILK

Voluntary Product Standard Action on Proposed Withdrawal

In accordance with § 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10, as revised; 35 FR 8349 dated May 28, 1970), notice is hereby given of the withdrawal of Voluntary Product Standard PS 37-70, "Package Quantities of Instant Nonfat Dry Milk."

It has been determined that the standard is no longer generally used by the

industry and that revision of this Voluntary Product Standard would serve no useful purpose. This action is taken in furtherance of the Department's announced intentions as set forth in the public notice appearing in the FEDERAL REGISTER of September 9, 1975 (40 FR 41828), to withdraw this standard.

The effective date for the withdrawal of this standard will be December 29, 1975. This withdrawal action terminates the authority to refer to this standard as a voluntary standard developed under the Department of Commerce procedures.

Dated: October 23, 1975.

ERNEST AMBLER,
Acting Director.

[FR Doc.75-29016 Filed 10-28-75;8:45 am]

National Oceanic and Atmospheric Administration

BROOKFIELD ZOO, ILLINOIS

Receipt of Application for Public Display Permit

Notice is hereby given that the following applicant has applied in due form for a permit to take marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Regulations Governing the Taking and Importing of Marine Mammals.

Brookfield Zoo, Chicago Zoological Park, Brookfield, Illinois 60513, to take two (2) Atlantic bottlenosed dolphins (*Tursiops truncatus*) for the purpose of display.

The bottlenosed dolphins will be taken by a professional collector from coastal waters of the Gulf of Mexico, by means of standard shallow water net techniques. The dolphins are intended to be taken during 1976.

The dolphins will be maintained and displayed, along with three other dolphins, in an enclosed pool measuring 100 feet long, 25 feet wide and up to 18 feet deep, with a capacity of 190,000 gallons of water.

Care and maintenance is provided by a staff of four senior staff members, with from seven to fourteen years experience, and a staff veterinarian.

The Brookfield Zoo is operated by the Chicago Zoological Society, a non-profit organization. An estimated 900,000 persons view the dolphins annually.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Documents submitted in connection with the above application are available for review in the Office of the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, and the Offices of the Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building 9450 Gandy Boulevard, St. Petersburg, Florida 33702, and the Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Washington, D.C. 20235, on or before November 28, 1975. The holding of such a hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: October 20, 1975.

ROBERT W. SCHONING,
Director,
National Marine Fisheries Service.

[FR Doc.75-28988 Filed 10-28-75;8:45 am]

NATIONAL ZOOLOGICAL GARDENS OF SRI LANKA

Receipt of Application for Public Display Permit

Notice is hereby given that the following applicant has applied in due form for a permit to take marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Regulations Governing the Taking and Importing of Marine Mammals.

The National Zoological Gardens of Sri Lanka, Anagarika, Dharmapala Mawatha, Dehiwala, Sri Lanka (Ceylon), to take two (2) California sea lions (*Zalophus californianus*) for public display.

The sea lions will be taken from the California Channel Islands by a professional collector. The animals will be transported to Colombo, Sri Lanka via air freight, with a stop and transfer of plane in London.

The sea lions will be maintained and displayed in three holding pools, each 10 feet wide, 15 feet long and 3 feet deep, and a display pool, 30 feet wide, 30 feet long and 8 feet deep. Approximately 120 square feet of hauling out areas are available. There is a 250 square foot stage adjoining the display pool.

The arrangements and facilities for transporting and maintaining the marine mammals requested in this application have been inspected by a Government Veterinary Surgeon, Department of Agriculture, Animal Protection and Health Division, Colombo, Sri Lanka, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

The Applicant is a department of the Government of Sri Lanka, and, as such, has access to professional veterinary and other assistance from government agencies. The sea lions are displayed in a performing exhibit, viewed by 140,000 persons annually. The display is operated on a non-profit basis.

All statements and opinions contained above in this notice in support of this application are summaries based on those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 FR 11614, March 12, 1975). In this regard, the application:

(a) Was submitted to the Director, NMFS, through the Ministry of Shipping and Tourism, Sri Lanka, the National Zoological Gardens being under the control of this Ministry;

(b) Includes:

i. A certification from the Ministry of Shipping and Tourism that the information set forth in the application is correct;

ii. A certification from the Ministry of Shipping and Tourism that it is possible for the Government of Sri Lanka to enforce the terms and conditions of the permit and will do so, if and when necessary; and

iii. A statement that the Ministry of Shipping and Tourism will have no objection to a NMFS decision to amend, suspend or revoke a permit.

In accordance with the above cited policy, the certifications and statements of the Ministry of Shipping and Tourism, Sri Lanka, have been found appropriate and sufficient to allow consideration of this permit application.

Documents submitted in connection with the above application are available for review in the Office of the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235; and the Office of the Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Interested parties may submit written data or views, or requests for a public hearing on this application to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before November 28, 1975. The holding of such hearing is at the discretion of the Director.

Dated: October 15, 1975.

ROBERT W. SCHONING,
Director, National
Marine Fisheries Service.

[FR Doc.75-28989 Filed 10-28-75;8:45 am]

SOUTHWEST FISHERIES CENTER

Notice of Modification of Scientific Research Permit

Notice is hereby given that, pursuant to the provisions of Sections 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (39 FR 1851, January 15, 1974), the Scientific Research Permit issued to the Southwest Fisheries Center, National Marine Fisheries Service, on December 11, 1974, as modified on January 6, 1975 (40 FR 1112), is further modified in the following manner:

The research activity reports are due by September 1 of each year, rather than by June 1. The advance notification provisions of the permit are waived.

This modification is effective on October 29, 1975.

The Permit, as modified, and documentation pertaining to the modification, is available for review in the Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235, and the Office of the Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: October 3, 1975.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

[FR Doc.75-28990 Filed 10-28-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Docket No. 75F-0287]

Food and Drug Administration

ICI UNITED STATES INC.

Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786 (21 U.S.C. 348 (b)(5))), notice is given that a petition (FAP 5B3097) has been filed by ICI United States Inc., Concord Pike & New Murphy Rd., Wilmington, DE 19897, proposing that § 121.2524 *Polyethylene phthalate polymers* (21 CFR 121.2524) be amended to provide for the safe use of ethyleneazelate - terephthalate copolymer as a heat-sealing coating on polyethylene terephthalate films for food-contact (beverage) use.

The environmental impact analysis report and other relevant materials have been reviewed. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, during working hours, Monday through Friday.

The Food and Drug Administration is currently preparing an environmental impact analysis report on plastic bottles for carbonated beverages and beer, the draft of which was recently made public (see FR Doc. 75-9591, appearing in the FEDERAL REGISTER of April 14, 1975 (40 FR 16708)). The final draft will be expanded to include polyester pouches.

Dated: October 16, 1975.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[Docket No. 75P-0270]

MORTON CHEMICAL CO.

Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786 (21 U.S.C. 348 (b)(5))), notice is given that a petition (FAP 5B3112) has been filed by Morton Chemical Co., 110 North Wacker Dr., Chicago, IL 60606, proposing that §§ 121.2526 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 121.2526) and 121.2569 *Resinous and polymeric coatings for polyolefin films* (21 CFR 121.2569) be amended to provide for the safe use of 2-sulfoethyl methacrylate, sodium salt as a component of coatings in contact with food.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the office of the Hearing Clerk, Food and Drug Administration, Rm 4-65, 5600 Fishers Lane, Rockville, MD 20852, during working hours, Monday through Friday.

Dated: October 10, 1975.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.75-28930 Filed 10-28-75;8:45 am]

National Institutes of Health

NATIONAL CANCER INSTITUTE ADVISORY COMMITTEES'

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available. Some of these meetings will be closed as indicated below in accordance with the provisions set forth in Sections 552(b)(4) and 552(b)(6) of Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463 for the review, discussion and evaluation of individual research contract proposals as indicated. The proposals contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland 20014 (301/496-5708) will furnish summaries of the meetings and rosters of committee members upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. Meetings are at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014 unless otherwise stated.

Name of committee: Clinical Trials Committee.
Dates: December 2, 1975, 8:30 a.m.
Place: Building 31A, Room: Conference Room 4, National Institutes of Health.
Times: Open—December 2, 8:30 a.m.-9:00 a.m. Closed—December 2, 9:00 a.m.-adjournment.
Closure reason: To review Research Contract Proposals.
Executive secretary: Dr. Todd H. Wasserman, Address: Building 37, Room 6D28, National Institutes of Health. Phone 301/496-1774.
Catalog of Federal domestic assistance number 13.825.

Name of committee: Cancer Control Intervention Programs Review Committee.
Dates: December 2, 1975, 8:30 a.m. Place: Landow Building, Room Conference Room C418, National Institutes of Health.
Times: Open—December 2, 8:30 a.m.-9:00 a.m. Closed—December 2, 9:00 a.m.-adjournment.
Closure reason: To Review Research Contract Proposals. Executive secretary: Dr. Robert Bowser, Address: Blair Building, Room 7A07, National Institutes of Health. Phone 301/427-7943.
Catalog of Federal domestic assistance number, 13.825.

Name of committee: Diagnostic Research Advisory Group.
Dates: December 3-4, 1975, 8:30 a.m. Place: Building 31C, Room: Conference Room 7, National Institutes of Health.
Times: Open—December 3, 8:30 a.m.-10:00 a.m. Closed: December 3, 10:00 a.m.-5:00 p.m. Closed: December 4, 8:30 a.m.-adjournment.
Closure reason: To Review Research Contract Proposals. Executive secretary: Mr. Louis P. Greenberg, Address: Building 31A, Room 3A10, National Institute of Health. Phone 301/496-1591.
Catalog of Federal domestic assistance number 13.825.

Name of committee: Cancer Control Supportive Services Review Committee.
Dates: December 4, 1975, 8:30 a.m. Place: Building 31B, Room: Conference Room 5, National Institutes of Health.
Times: Open—December 4, 8:30 a.m.-9:00 a.m. Closed: December 4, 9:00 a.m.-adjournment.
Closure reason: To Review Research Contract Proposals. Executive secretary: Dr. Veronica L. Conley, Address: Blair Building, Room 7A07, National Institutes of Health. Phone 301/427-7943.
Catalog of Federal domestic assistance number 13.825.

Name of committee: Committee on Cancer Immunobiology.
Dates: December 9, 1975, 2:00 p.m. Place: Building 10, Room Conference Room 4B14, National Institutes of Health.

Times: Open—December 9, 2:00 p.m.–2:30 p.m. Closed: December 9, 2:30 p.m.–adjournment.
Closure reason: To Review Research Contract Proposals.
Executive secretary: Ms. Judith M. Magnotta, Address: Building 10, Room 4B17, National Institutes of Health. Phone 301/496–1791.
Catalog of Federal domestic assistance number 13.825.
Name of committee: Diagnostic Radiology Committee.
Dates: December 9–10, 1975, 8:30 a.m. Place: Building 31C, Room Conference Room 7, National Institutes of Health.
Times: Open—December 9, 8:30 a.m.–9:30 a.m. Closed: December 9, 9:30 a.m.–5:00 p.m. Closed: December 10, 8:30 a.m.–adjournment.
Closure reason: To Review Research Contract Proposals.
Executive secretary: Dr. R. Quentin Blackwell, Address: Building 31A, Room 3A10, National Institutes of Health. Phone 301/496–1591.
Catalog of Federal domestic assistance number 13.825.
Name of committee: Drug Development contract Review Committee.
Dates: December 12, 1975, 9:00 a.m. Place: Building 31C, Room Conference Room 8, National Institutes of Health.
Times: Open—December 12, 10:30 a.m.–adjournment. Closed: December 12, 9:00 a.m.–10:39 a.m.
Closure reason: To Review Research Contract Proposals.
Executive secretary: Mrs. Naomi FitzGibbon, Address: Blair Building, Room 5A03, National Institutes of Health. Phone: 301/427–7337.
Catalog of Federal domestic assistance number 13.825.
Name of committee: Committee on Cancer Immunodiagnosis.
Dates: December 16, 1975, 1:00 p.m. Place: Building 10, Room Conference Room 4B14, National Institutes of Health.
Times: Open—December 16, 1:00 p.m.–1:30 p.m. Closed: December 16, 1:30 p.m.–adjournment.
Closure reason: To Review Research Contract Proposals.
Executive secretary: Ms. Judith M. Magnotta, Address: Building 10, Room 4B17, National Institutes of Health. Phone 301/496–1791.
Catalog of Federal domestic assistance number 13.825.
Name of committee: Committee on Cancer Immunotherapy.
Dates: December 18, 1975, 1:00 p.m.
Place: Building 10, Room Conference Room 4B14, National Institutes of Health.
Times: Open—December 18, 1:00 p.m.–1:30 p.m. Closed: December 18, 1:30 p.m.–adjournment
Closure reason: To Review Research Contract Proposals.
Executive secretary: Dr. Harriet Gordon, Address: Building 10, Room 4B17, National Institutes of Health. Phone: 301/496–1791.
Catalog of Federal domestic assistance number 13.825.

Dated: October 23, 1975.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc.75–28999 Filed 10–28–75;8:45 am]

Office of Education

FOREIGN LANGUAGE AND AREA STUDIES RESEARCH PROGRAM

Proposed Priorities for the Funding of Proposals

Notice is hereby given that pursuant to the authority contained in section 602 of the National Defense Education Act of 1958, as amended (20 U.S.C. 512), the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to utilize the funding priorities set forth below in the evaluation of unsolicited proposals for contracts to conduct research, surveys, and studies under the Foreign Language and Area Studies Research Program. Under this program the Commissioner is authorized to contract for studies and surveys to determine the need for increased or improved instruction in modern foreign languages and related fields needed to provide a full understanding of the areas, regions, or countries in which such languages are commonly used, to conduct research on more effective methods of teaching such languages and such fields, and to develop specialized materials for use in training students and language teachers. Proposals for contracts to conduct research and studies under the Foreign Language and Area Studies Research Program will be accepted as unsolicited proposals and be received and evaluated in accordance with the requirements and evaluation criteria listed in § 3–4.5203–2(b) of the HEW Procurement Regulations (41 C.F.R. 3–4.5203–2(b)). The proposed priorities are as follows:

Priority will be given to proposals dealing with: (1) the preparation of specialized instructional material particularly for languages which are not widely taught in the United States and for which there is no commercial market, and for area studies concerned with the non-Western world; (2) teaching methodology, and more specifically methodology which applies linguistic, psycholinguistic and sociolinguistic theories to projects which can thereby be expected to increase our understanding of second language acquisition and improve teaching and learning methodology; and (3) conferences, studies, and surveys to assess the state of the art of foreign language and area studies in the United States, to determine new directions as needed, to identify priority needs for specialized materials, and to observe national trends through surveys of enrollments and degree requirements.

For the information of applicants, the criteria listed in section 3–4.5203–2(b) of the HEW Procurement Regulation include:

(1) The overall scientific and technical merit of the proposed effort;

(2) The potential contribution which the proposed effort is expected to make to specific program objective(s), if supported at this time;

(3) The unique capabilities, related experience, facilities, instrumentation, or techniques which the offeror possesses and offers, and which are considered to be integral factors for achieving the scientific, technical, or technological objective(s) of the proposal; and

(4) The unique qualifications, capabilities, and experiences of the proposed principal investigator and/or key personnel.

For the further information of applicants, unsolocited proposals under the HEW Procurement Regulations (41 C.F.R. 3–4.5202–1(b)), must include the following information:

(1) Name and address of the organization or individual submitting the proposal;

(2) Date of preparation or submission;

(3) Type of organization (profit, nonprofit, educational, other);

(4) Concise title and clear and concise abstract. Extensive material should be included only in appendices;

(5) An outline and discussion of the purpose of the proposed effort of activity, the method of approach to the problem, and the nature and extent of the anticipated results;

(6) Names of the key personnel to be involved, brief biographical information, including principal publications and relevant experience;

(7) Proposed starting and completion dates;

(8) Equipment, facility, and personnel requirements;

(9) Proposed budget, including separate cost estimates for salaries and wages, equipment, expendable supplies, services, travel, subcontracts, other direct costs and overhead;

(10) Names of any other Federal agencies receiving the unsolicited proposal and/or funding the proposed effort or activity;

(11) Brief description of the offeror's facilities, particularly those which would be used in the proposed effort or activity;

(12) Brief outline of the offeror's previous work and experience in the field;

(13) A current financial statement and, if available, a descriptive brochure;

(14) The period for which unsolicited proposal is valid;

(15) Names and telephone numbers of offeror's primary business and technical personnel whom the agency may contact during evaluation and/or negotiation;

(16) Identification, on the cover sheet, of technical data which the offeror intends to be used by HEW for evaluation purposes only (see 41 C.F.R. 3–1.353(c)); and

(17) Signature of a responsible official of the proposing organization or a person authorized to contractually obligate such organization.

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed areas of funding priorities to Foreign Language and Area Research Program, Bureau of Postsecondary Education, U.S. Office of Education, Room 3928, 7th and D Streets, S.W., Washington, D.C. 20202. Comments received in response to this notice will be available for public inspection at the above office on Mondays through Fridays between 8:30 a.m., and 4:30 p.m.

All relevant material must be received not later than November 28, 1975.

(20 U.S.C. 512)

It is hereby certified that the economic and inflationary impacts of this proposed

regulation have been carefully evaluated in accordance with OMB Circular A–107.

Dated: September 22, 1975.

T. H. BELL,
U.S. Commissioner of Education.

Approved: October 22, 1975.

DAVID MATHEWS,
Secretary of Health, Education, and Welfare.

(Catalog of Federal Domestic Assistance Number 13.436; Higher Education—Foreign Language and Area Research Program)

[FR Doc.75-28960 Filed 10-28-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

ASSOCIATE ADMINISTRATOR FOR CAPITAL ASSISTANCE

Redelegation of Authority With Respect to Urban Mass Transportation Programs

The purpose of this notice is to effect a redelegation within the Urban Mass Transportation Administration of certain authority and functions under section 5 of the Urban Mass Transportation Act of 1964 as amended ("the Act") (49 U.S.C. 1604) which were delegated to the Urban Mass Transportation Administrator by the Secretary of the Transportation (49 CFR 1.45(b) and 1.50), and to advise the public thereof as required by the Freedom of Information Act (5 U.S.C. 552).

Since this redelegation is solely a matter of departmental management, procedures and practices, notice and public comment thereon are unnecessary, and it may be made effective in less than thirty days after publication in the FEDERAL REGISTER.

Effective immediately, the Associate Administrator for Capital Assistance (UCA–1) is delegated authority as follows:

(1) To concur in the selection by Governors, responsible local officials, and publicly owned operators of mass transportation services, of designated recipients to receive and dispense funds attributable to urbanized areas of two hundred thousand or more population, pursuant to section 5(b)(2) of the Act (49 U.S.C. § 1604(b)(2)), and to execute letters of notification of such concurrence; and

(2) To approve programs of projects for the utilization of authorized funds developed by a Governor or a designated recipient for any urbanized area of less than two hundred thousand population and approved by the metropolitan planning organization of the area involved, pursuant to section 5(g)(2) of the Act (49 U.S.C. 1604(g)(2)), and to execute letters of notification of such approval; and

(3) To approve operating and capital assistance projects, under section 5 of the Act (49 U.S.C. 1604) for urbanized areas of less than two hundred thousand population; and

(4) To execute grant contracts for approved operating and capital assistance projects under section 5 of the Act (49 U.S.C. 1604) and amendments to such contracts within previously approved limits; and

(5) To approve requisitions for funds under duly executed grant contracts under section 5 of the Act (49 U.S.C. 1604); and

(6) To sign general correspondence (not including Congressional, Office of the Secretary, or Executive Office of the President correspondence) pertaining to projects and programs under section 5 of the Act (49 U.S.C. 1604).

He is further authorized to re-delegate the authority herein conferred to one or more employees within the Office of Capital Assistance.

Done at Washington, D.C. this 21st day of October 1975.

ROBERT E. PATRICELLI,
Urban Mass Transportation Administration.

[FR Doc.75-28985 Filed 10-28-75;8:45 am]

CIVIL AERONAUTICS BOARD

[Dockets 28338, 27258; Order 75-10-101]

AEROVIAS CONDOR de COLOMBIA, S.A. AND AEROVIAS CONDOR de COLOMBIA, LTDA.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 23rd day of October, 1975.

On September 23, 1975, Aerovias Condor de Colombia, S.A., filed an application for approval of the transfer to it of the foreign air carrier permit held by Aerovias Condor de Colombia, Ltda., and contemporaneously filed a motion for a show cause order to be issued on its application for transfer of the foreign air carrier permit.

No answers to the application and motion have been received.[1]

BACKGROUND

Aerovias Condor de Colombia, Ltda., was issued a foreign air carrier permit by the Board by Order E–16588, adopted February 21, 1961, which was amended by Order E–19456, February 1, 1963, and Order E–21620, November 5, 1964. The permit authorizes foreign air transportation with respect to persons, property, and mail between a point or points in Colombia and Miami, Florida.

OWNERSHIP AND CONTROL

The current permit holder, Aerovias Condor de Colombia, Ltda., was organized in 1955 as a limited partnership under the laws of the Republic of Colombia.

On March 5, 1973, the applicant, Aerovias Condor de Colombia, S.A., was incorporated under the laws of the Republic of Colombia. Upon its formation, the entire business of Aerovias Condor de Colombia, Ltda., was transferred to applicant. Since that time, the applicant has continued the operations previously conducted by Aerovias Condor de Colombia, Ltda.

In addition to ownership, the management continues to remain in the control of Colombian nationals. All four officers of the company and thirteen of the fourteen directors are Colombian citizens. Thus, it is tentatively concluded that effective control over both day-to-day operations and policy decision is vested in nationals of Colombia.

FINANCIAL AND OPERATIONAL FITNESS

Aerovias Condor de Colombia, S.A., possesses, in all material respects, the attributes of Aerovias Condor de Colombia, Ltda. which was found by the Board in Order E–21620, effective December 28, 1964, to be fit, willing, and able to perform the foreign air transportation in issue. In terms of management experience, flight personnel, equipment, and service facilities, it is essentially the same organization which has been in operation since 1955. Also, applicant's certified financial statements for the year ended December 31, 1974, indicate assets at that time exceeding $10 million, a net worth in excess of $1 million, and profits exceeding $100,000 for the last two fiscal years.[2]

Furthermore, by requesting this transfer the applicant is voluntarily accepting the limits of passenger liability and the terms governing such limits as are set forth in CAB Agreement 18900, approved by the Board in Order E–23680, May 13, 1966. Thus, it is tentatively concluded that all of the fitness requirements of section 402 of the Act are met by the applicant.

PUBLIC INTEREST

Transfer of Aerovias Condor de Colombia Ltda.'s permit to the applicant to perform the identical foreign air transportation is based upon the same considerations expressed in Orders E–16588, E–19456, and E–21620 pursuant to which the Board found the issuance of a permit to the permit holder to be in the public interest. The Government of Colombia has designated Aerovias Condor de Colombia, S.A., under the bilateral agreement in lieu of the current permit holder.

On the basis of the foregoing, it is tentatively found and concluded that:

(a) Aerovias Condo de Colombia, SA., is fit, willing, and able properly to perform the air transportation proposed in its application and to conform to the provisions of the Act and the rules, regulations and requirements of the Board thereunder;

(b) Aerovias Condor de Colombia, S.A., is substantially owned and effectively controled by nationals of Colombia;

(c) Aerovias Condor de Colombia, S.A., should be subject to all of the terms, conditions, and limitations set forth in

[1] Applicant originally filed in Docket 27258 a change of name request. In light of our action in Docket 28338 transferring the permit, the request in Docket 27258 will be dismissed as moot.

[2] Exhibit D, Application.

the attached specimen foreign air carrier permit;

(d) Aerovias Condor de Colombia, S.A., has been designated by the Government of Colombia and the Air Transport Services Agreement with the intention that it take over all the services of Aerovias Condor de Colombia, Ltda. thereunder;

(e) A hearing on the application of Aerovias Condor de Colombia, S.A., is not required in the public interest; and

(f) The transfer to Aerovias Condor de Colombia, S.A., of the permit held by Aerovias Condor de Colombia, Ltda. is in the public interest.

Accordingly, we have decided to issue an order directing interested persons to show cause why the Board should not approve the transfer of Aerovias Condor de Colombia, Ltda.'s permit to Aerovias Condor de Colombia, S.A.

All interested persons will be given 30 days following the adoption of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to direct their objections, if any, to specific issues, and to support such objections with detailed analyses. If an evidentiary hearing is requested, the objector should name the specific markets or other issues with respect to which a hearing is requested and should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing. Vague, general, or unsupported objections will not be entertained.

Accordingly, it is ordered that: 1. All interested persons be and they hereby are directed to show cause why the Board should not make final the tentative findings and conclusions herein and why an order should not be issued, subject to approval by the President pursuant to section 801 of the Act, transferring and reissuing the permit held by Aerovias Condor de Colombia, Ltda. to Aerovias Condor de Colombia, S.A., and canceling the permit issued by Order E-21620, effective December 26, 1964;

2. Any interested persons having objections to the issuance of an order making final the tentative findings and conclusions herein and transferring the said permit shall, within 30 days after adoption of this order, file with the Board and serve on the persons named in paragraph 6 a statement of objections specifying the part or parts of the tentative findings or conclusions objected to, together with a summary of testimony, statistical data and such evidence expected to be relied upon to support the statement of objections;

3. If timely and properly supported objections hereto are filed, full consideration will be accorded the matters or issues raised therein before further action is taken by the Board: *Provided,* That the Board may proceed to enter an order in accordance with the tentative findings and conclusions herein if it determines that there are no factual issues presented that warrant the holding of an evidentiary hearing;[1]

4. In the event no objections are filed to this order, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions herein;

5. The application of Aerovias Condor de Colombia, Ltda., in Docket 27258 for permission to change its name pursuant to Part 215 of the Boards' Economic Regulations be and it hereby is dismissed; and

6. This order shall be served upon Aerovias Condor de Colombia, S.A., the Ambassador of Colombia, Braniff Airways, Inc., and Pan American World Airways, Inc.

This order shall be published in the FEDERAL REGISTER, and transmitted to the President.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

SPECIMEN

PERMIT TO FOREIGN AIR CARRIER (AS REISSUED)

Aerovias Condor de Colombia, S.A. is hereby authorized, subject to the provisions hereinafter set forth, the provisions of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued thereunder, to engage in foreign air transportation with respect to persons, property, and mail, as follows: Between a point or points in Colombia and the terminal point Miami, Florida.

The holder hereof shall be authorized to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitations prescribed by Part 212 of the Board's Economic Regulations.

The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of Colombia for Colombian international air service.

This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and Colombia shall be parties.

The exercise of the privileges granted hereby shall be subject to such reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This permit shall be subject to the conditions that the holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

The holder (1) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of $1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation with respect to persons unless there is in effect liability insurance sufficient to cover the obligations assumed in CAB Agreement 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

By accepting this permit the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

This permit shall be effective on ---------- Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention, or agreement, this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement, or amendment thereto, which shall have the effect of eliminating the route hereby authorized from the routes which may be operated by airlines designated by the Government of Colombia, or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of Colombia in lieu of the holder hereof, or (3) upon the termination or expiration of the Air Transport Agreement signed October 24, 1956, effective January 1, 1957: *Provided, however,* That if prior to the occurrence of the event specified in clause (3) of this paragraph, the operation of the foreign air transportation herein authorized becomes the subject of any treaty, convention, or agreement to which the United States and Colombia are or shall become parties, then and in that event this permit is continued in effect during the period provided in such treaty, convention, or agreement.

In witness whereof, the Civil Aeronautics Board has caused this permit to be executed by the Secretary of the Board, and the seal of the Board to be affixed hereto, on the ----------.

[SEAL] *Secretary.*

[FR Doc.75-29023 Filed 10-28-75;8:45 am]

CIVIL SERVICE COMMISSION

Department of Agriculture

Grant of Authority to Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Agriculture to fill by noncareer executive assignment in the excepted service the position of Director, Grains, Oilseeds, and Cotton Division, Office of the Director, Deputy Administrator, Programs, Agricultural Stabilization and Conservation Service, Assistant Secretary for International Affairs and Commodity Programs.

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

[FR Doc.75-28962 Filed 10-28-75;8:45 am]

[1] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

DEPARTMENT OF AGRICULTURE

Revocation of Authority to Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Agriculture to fill by noncareer executive assignment in the excepted service the position of Director, Grain Division, Deputy Administrator, Commodity Operations, Agricultural Stabilization and Conservation Service.

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

[FR Doc.75-28964 Filed 10-28-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Revocation of Authority To Make Noncareer Executive Assignment

Under authority § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Agriculture to fill by noncareer executive assignment in the excepted service the position of Director, Cotton, Rice, and Oilseeds Division, Office of the Director, Deputy Administrator, Programs, Agricultural Stabilization and Conservation Service.

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

[FR Doc.75-28965 Filed 10-28-75;8:45 am]

FEDERAL ENERGY ADMINISTRATION

Title Change in Noncareer Executive Assignment

By notice of July 1, 1975, FR Doc. 75-17020, the Civil Service Commission authorized the Federal Energy Administration to fill by noncareer executive assignment the position of Associate Assistant Administrator for Allocation Regulation Development, Office of Allocation Regulation Development, Office of the Assistant Administrator for Regulatory Programs. This is notice that the title of this position is now being changed to Associate Assistant Administrator for Regulations Development, Regulations Development, Regulatory Programs.

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

[FR Doc.75-28961 Filed 10-28-75;8:45 am]

FEDERAL EMPLOYEES PAY COUNCIL

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the Federal Employees Pay Council will meet at 1:30 p.m. on Wednesday, November 12, 1975. This meeting will be held in room 5323 of the U.S. Civil Service Commission building, 1900 E. Street, NW., and will consist of continued discussions on future comparability adjustments for the statutory pay systems, defined in section 5301 of title 5, United States Code, of the Federal Government.

The Chairman of the U.S. Civil Service Commission is responsible for the making of determinations under section 10(d) of the Federal Advisory Committee Act as to whether or not meetings of the Federal Employees Pay Council shall be open to the public. He has determined that this meeting will consist of exchanges of opinions and information which, if written, would fall within exemptions (2) or (5) of 5 U.S.C. 552(b). Therefore, this meeting will not be open to the public.

For the President's Agent:

RICHARD H. HALL,
Advisory Committee Management Officer for the President's Agent.

[FR Doc.75-28963 Filed 10-28-75;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN MAN-MADE FIBER TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN HAITI

Levels of Restraint

OCTOBER 24, 1975.

On August 29, 1975, the United States Government requested the Government of Haiti to enter into consultations under Article 3 of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, concerning exports to the United States of man-made fiber textile products in Categories 233 (playsuits, sunsuits, woven) and 238 (trousers, woven), produced or manufactured in Haiti. Public notice of this request was published in the FEDERAL REGISTER on September 19, 1975 (40 FR 43267), and public comment and/or submission of additional information was invited by October 10, 1975.

Since no solution has been mutually agreed upon, the United States Government, in furtherance of the objectives of, and under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, including Article 3, is establishing restraints at the following levels for the period beginning on August 29, 1975 and extending through August 28, 1976:

Category:		*12-mo. level of restraint*
233	dozen	81,067
238	do..	226,341

These levels of restraint do not apply to man-made fiber textile products in Categories 233 and 238, produced or manufactured in Haiti and exported to the United States prior to August 29, 1975. There is published below a letter of October 24, 1975, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that, effective on October 29, 1975, the amounts of man-made fiber textile products in Categories 233 and 238, produced or manufactured in Haiti, which may be entered or withdrawn from warehouse for consumption in the United States during the twelve-month period beginning on August 29, 1975, be limited to the designated levels.

Effective Date: October 29, 1975.

ALAN POLANSKY,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

COMMISSIONER OF CUSTOMS,
Department of the Treasury, Washington, D.C. 20229.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on October 29, 1975 and for the twelve-month period beginning on August 29, 1975 and extending through August 28, 1976, entry into the United States for consumption and withdrawal from warehouse for consumption, of man-made fiber textile products in Categories 233 and 238, produced or manufactured in Haiti, in excess of the following levels of restraint:

Category:		*12-Mo. level of restraint*
233	dozen..	81,067
238	do...	226,341

Entries of man-made fiber textile products in Categories 233 and 238, produced or manufactured in Haiti, which have been exported to the United States prior to August 29, 1975, shall not be subject to this directive.

Man-made fiber textile products in Categories 233 and 238 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of these categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on February 3, 1975 (40 F.R. 5010).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Haiti and with respect to imports of man-made fiber textile products from Haiti have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ALAN POLANSKY,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

[FR Doc.75-29143 Filed 10-28-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-50041; FRL 448-6]

ABBOTT LABORATORIES

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to Abbott Laboratories, North Chicago, Illinois 60064. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 275-EUP-12) allows the use of 5808 billion International units of potency of the insecticide *Bacillus thuringiensis*, Berliner and 800 pounds active ingredient of the insecticide chlordimeform to control the cotton bollworm and the tobacco budworm on cotton. A total of 200 acres is involved; the program is authorized only in the States of Alabama, Arizona, Arkansas, California, Georgia, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas. The experimental use permit is effective from October 1, 1975 to October 1, 1976. Permanent tolerances have been established for residues of *Bacillus thuringiensis*, Berliner and chlordimeform on cottonseed; food additive tolerances have been established for residues of chlordimeform in cottonseed hulls.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: October 21, 1975.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.75-29051 Filed 10-28-75;8:45 am]

[OPP-50040; FRL 448-8]

CHEVRON CHEMICAL CO.

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to Chevron Chemical Company, Richmond, California 94804. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 239-EUP-67) allows the use of 1,661.25 pounds of the insecticide acephate on trees and ornamentals to evaluate control of aphids, scale insects, lepidopterous larvae, and other insects. The program is authorized only in the States of Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, New Jersey, New York, Ohio, Oregon, Pennsylvania, Tennessee, Texas, Utah, Virginia, Washington, and West Virginia. The experimental use permit is effective from October 1, 1975, to October 1, 1976.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: October 21, 1975.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.75-29052 Filed 10-28-75;8:45 am]

[PP20; FRL 448-4]

DEPARTMENT OF THE ARMY

Food Additive Petition; Notice of Filing

The Department of the Army, Office of the Chief of Engineers [DAEN-CWO-R], Washington, DC 20314, has submitted a petition (FAP 6H5107 to the Environmental Protection Agency (EPA) which proposes the establishment of a food additive regulation permitting the use of the herbicide and plant regulator 2,4-dichlorophenoxyacetic acid (2,4-D) in potable water with a tolerance limitation of 0.1 part per million. These residues would result from the application of the butoxyethanol ester of 2,4-D in water hyacinth control programs conducted by the Corps of Engineers or other Federal, State, or local public agencies in ponds, lakes, reservoirs, marshes, bayous, drainage ditches, canals, rivers, and streams that are quiescent or slow moving.

Notice of this submission is given pursuant to the provisions of Section 409(b)(5) of the Federal Food, Drug, and Cosmetic Act. Interested persons are invited to submit written comments on the petition referred to in this notice to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Room 401, East Tower, 401 M St. SW, Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting them. The comments should be submitted as soon as possible and should bear a notation indicating the petition number "FAP 6H5107". Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: October 21, 1975.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.75-29049 Filed 10-28-75;8:45 am]

[OPP-50042; FRL 448-7]

GAF CORPORATION

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to GAF Corporation, New York, New York 10030. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 1529-EUP-1) allows the use of 10 pounds of the plant regulator ethephon on tobacco. A total of 5 acres is involved; the program is authorized only in the States of Georgia and North Carolina. The experimental use permit is effective from October 2, 1975, to October 2, 1976.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: October 21, 1975.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.75-29053 Filed 10-28-75;8:45 am]

[PFT4; FRL 448-5]

MONSANTO CO.

Food Additive Petition; Notice of Filing

The Monsanto Co., 800 N. Lindbergh, St. Louis MO 63166, has submitted a petition (FAP 6H5106) to the Environmental Protection Agency which proposes to amend 21 CFR 123 by establishing a food additive regulation permitting the use of the herbicide glyphosate (N-(phosphonomethyl) glycine) and its metabolite aminomethylphosphonic acid in potable water with a tolerance limitation of 0.05 part per million resulting from the use of the herbicide in a proposed experimental program involving application to and near impounded and flowing water.

Notice of this submission is given pursuant to the provisions of Section 409 (b)(5) of the Federal Food, Drug, and Cosmetic Act. Interested persons are invited to submit written comments on the petition referred to in this notice to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Room 401, East Tower, 401 M St. SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting them. The comments should be submitted as soon as possible and should bear a notation indicating the petition number "FAP 6H5106". Comments may be made at any time while a petition is pending before the Agency. All written comments will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:30 p.m. Monday through Friday.

Dated: October 23, 1975.

MARTIN H. ROGOFF,
Acting Director, Registration Division.

[FR Doc.75-29050 Filed 10-28-75;8:45 am]

[PP6G1677/T17; FRL 448-3]

OXYTETRACYCLINE HYDROCHLORIDE

Notice of Establishment of a Temporary Tolerance

The Plant Pathology Department, New York State Agricultural Experiment Station, P.O. Box 727, Highland, NY 12528, submitted a pesticide petition (PP 6G1677) to the Environmental Protection Agency (EPA). This petition requested that a temporary tolerance be established for residues of the fungicide oxytetracycline hydrochloride in or on the raw agricultural commodity peaches at 0.1 part per million resulting from infusion of peach trees with an aqueous solution of the fungicide after harvest and prior to formation of new blooms.

This temporary tolerance will permit the marketing of peaches when treated in accordance with an experimental use permit which is being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act.

The scientific data reported have been evaluated, and it has been determined that this temporary tolerance is adequate to cover residues resulting from the proposed experimental use, and that such tolerance will protect the public health.

The temporary tolerance is, therefore, established for the fungicide on condition that the fungicide be used in accordance with the experimental use permit with the following provisions:

1. The total amount of the active fungicide to be used must not exceed the quantity authorized by the experimental use permit.

2. The Plant Pathology Department, New York State Agricultural Experiment Station, must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The Experiment Station must also keep records of distribution and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires October 17, 1976. Residues not in excess of this temporary tolerance remaining in or on the above raw agricultural commodity after expiration of this tolerance will not be considered actionable if the fungicide is legally applied during the term and in accordance with the provisions of the experimental use permit and temporary tolerance. The temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this fungicide indicate such revocation is necessary to protect the public health.

(Section 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)))

Dated: October 17, 1975.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.75-29054 Filed 10-28-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20181, File No. BHP-8408; Docket No. 20182, File No. BPH-8798; FCC 75 R-384]

ROCKET RADIO, INC. AND APOSTOLIC COUNCIL OF CHURCHES, INC.

Memorandum Opinion and Order Enlarging Issues

1. This proceeding involves the mutually exclusive applications of Rocket Radio, Inc. (Rocket) and Apostolic Council of Churches, Inc. (Apostolic) for authorization to construct a new FM broadcast station at Fort Valley, Georgia. The applications were designated for a consolidated hearing by Commission Memorandum Opinion and Order, FCC 74-952, 39 FR 33827, published September 20, 1974. Presently before the Review Board is a petition to enlarge issues, filed March 11, 1975, by Apostolic requesting the addition of character qualifications and concentration of control issues against Rocket.[1] [2]

CHARACTER QUALIFICATIONS ISSUES

2. Apostolic alleges that at the instigation of Paul Reehling, Rocket's president and general manager, law enforcement officials investigated and intimidated Apostolic's proposed volunteer employees; that Rocket filed a misleading and fraudulent affidavit with the Commission; and that Reehling, as Mayor of Fort Valley, has conspired with Frank E. Flowers, the Fort Valley Building Inspector, to harass and obstruct Apostolic's efforts to obtain a building permit for its radio transmission tower.[3] With respect to the first allegation, Apostolic avers, as related in the attached March 7, 1975 affidavits of Joseph Dale Wilson and of Ray McWilliams, that the day after Apostolic provided Rocket's counsel with the names of its proposed volunteer employees, the two volunteers were questioned by policemen at the behest of Reehling. Thus, Wilson avers that on February 27, 1975, between 5 and 6 p.m., he was visited by "Detective" Talton of the Houston County Sheriff's Department[4] and that Talton asked to see Wilson's driver's license and his social security number, and inquired as to Wilson's place of employment. When Wilson questioned Talton as to the purpose of his visit, Talton's response was "Paul Reehling of Fort Valley has requested me to get some information."[5] Affiant McWilliams avers that on February 27, 1975, as he was arriving home from work at about 4 p.m., he was stopped by a police officer who was not in uniform but who was driving a marked police car. McWilliams adds that the officer, ostensibly interested in purchasing insurance, upon being informed that McWilliams was no longer employed as an insurance salesman, began inquiring as to his present employment. Subsequently, McWilliams learned that the officer had also questioned the secretary of his apartment building as to his employment and what kind of car he drove. According to Apostolic, such use of a public office by an applicant to gain information concerning a competing applicant and to intimidate its prospective employees is conduct which requires close Commission scrutiny.

3. Regarding its second major allegation, Apostolic asserts that the sworn statement of Frank Flowers, dated February 28, 1975, is not only false but that it also illustrates the continuing collusion of Reehling and Flowers to advance Reehling's interests at the expense of those of Apostolic. According to Apostolic, Flowers attested in his affidavit that he had inspected Apostolic's church on February 20, 1975, and found that the church sustained only minor roof damage as a result of the high winds accompanying the tornado of February 18, 1975. However, Apostolic contends, this statement is contradicted by Flowers' subsequent instructions to Charles R. Cobb, Apostolic's president, on March 1,

[1] Also before the Board are the following related pleadings: (a) opposition, filed March 21, 1975, by Rocket; (b) comments, filed March 21, 1975, by the Broadcast Bureau; and (c) reply, filed March 28, 1975, by Apostolic.

[2] The instant petition to enlarge and responsive pleadings were referred by the Commission to the Review Board for consideration and disposition by Memorandum Opinion and Order, FCC 75-927, released August 12, 1975

[3] In the Board's view, Apostolic has shown good cause for its late-filed petition as required by Rule 1.229(b), since the events which precipitated the filing of the instant petition occurred only recently. In any case, the petition raises substantial public interest questions. See *The Edgefield-Saluda Radio Company*, 5 FCC 2d 148, 8 RR 2d 611 (1966).

[4] Houston County borders Peach County in which Fort Valley is located.

[5] In an affidavit, dated March 1, 1975, Lillian Susan Wilson states that she witnessed the questioning of her husband by Talton.

1975, to stop making repairs on the church because it might be so severely damaged that it would have to be torn down,[6] as well as by the affidavits of two citizens who state that they had observed that the church was moved off of its foundation and the notarized but unsworn statement of an insurance adjuster to the same effect.[7]

4. Regarding its third allegation, Apostolic contends that Reehling and Flowers, as Mayor and building inspector, respectively, have used their official positions to arbitrarily block Apostolic's efforts to obtain a building permit since the fall of 1974 when Apostolic was proposing to erect a radio transmission tower on the roof of a building located at 309 Pear Street, Fort Valley. In support of this contention, Apostolic relates the following sequence of events. In the early fall of 1974, according to Apostolic, Flowers and Reehling visited Apostolic's site together and Cobb claims that he overheard Reehling tell Flowers that the weight of a radio tower would break the roof of the building.[8] Subsequently, in early October, notes Apostolic, before it had even applied for a permit, Flowers addressed a letter to Reehling in his capacity as general manager of Rocket, stating that a construction permit would not be forthcoming for the proposed tower and antenna at 309 Pear Street.[9] On October 16, 1974, Apostolic relates, Cobb applied for a permit to erect a 100 ft. guyed tower (to be placed on the ground) at 309 Pear Street but was advised in a letter from Flowers, dated October 31, 1974, that his plans were being denied, and when Cobb next sought authorization to place a 103 ft. free-standing tower at 309 Pear Street, he was informed in a letter from Flowers, dated December 10, 1974, that the permit could not be issued because it would not be in compliance with the City of Fort Valley Code and Zoning Ordinance.[10] After unsuccessfully appealing Flowers' decision to deny a permit for 309 Pear Street to the Board of Zoning Appeals, recounts Apostolic, it purchased a plot of land at 310 Benjamin Street, Fort Valley, which was zoned "industrial." However, petitioner continues, its plans for a radio tower, transmitter and building at 310 Benjamin Street were rejected by Flowers on January 28, 1975, as not conforming with Section 78 of the Zoning Ordinance, although Section 78 provides for radio transmission towers in the industrial zone.[11] Apostolic argues that the aforementioned actions must be viewed "as evidence of a conspiracy between Reehling and Flowers to deny * * * Apostolic comparative consideration before the Commission." The Broadcast Bureau supports inquiry into each of Apostolic's allegations.

5. In its opposition, Rocket concedes that its two investigators were friends of Paul Reehling, but contends that both were off-duty police officers who politely questioned the volunteers and that "neither was acting in an official capacity nor represented that he was."[12] Rocket advances two interpretations concerning Flowers' affidavit of February 28, 1975, and later contradictory remarks to Cobb as to the condition of the church. First, Rocket maintains that, as Building Inspector, Flowers was under a duty to inspect all property in Fort Valley following the tornado, and, therefore, Flowers appropriately directed Cobb to cease work until an inspection could be made. Second, Rocket argues that Flowers' admonition to Cobb shows his recognition that the church might have been more seriously damaged than initial observation had revealed. With respect to Apostolic's efforts to obtain a building permit, Rocket avers that the Pear Street address is in a residential section which is not zoned for the construction and operation of radio facilities, and that Apostolic appealed the Building Inspector's decision as to the site at 310 Benjamin Street before the Fort Valley Zoning and Appeal Board, which denied the appeal on March 14, 1975. As an attachment to its opposition, Rocket submits a letter from David I. Sammons who, according to Rocket, is Chairman of the Appeal Board. Sammons' letter states that the Board's "denial was based on facts presented to us by the property owners and the city owned Utility Commission." Rocket also submits a petition purportedly signed by 21 area residents opposing the erection of a radio tower or transmission station on Benjamin Street.

6. Apostolic replies that Reehling's use of police officers to question its volunteer employees constitutes an abuse of his official position as Mayor and must be regarded as being conduct which was intimidating to the volunteers. Apostolic also disputes Rocket's account of the Appeal Board's decision regarding a permit for 310 Benjamin Street.[13] Specifically, Apostolic asserts that upon contacting several of the people who signed the petition opposing the tower, it learned that two signatories, Mr. and Mrs. Killins, signed the petition "only because they were told that wires from the radio tower would somehow interfere with their wires." In support, Apostolic supplies an unnotarized petition signed by Emma Killins and two other individuals to the effect that they have no objection to the construction of a tower on the property.[14] Apostolic also argues

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[6] In support, Apostolic attaches the affidavit of Charles R. Cobb, dated March 8, 1975, recounting his discussion with Flowers.

[7] Apostolic notes that Flowers' affidavit was attached to Rocket's petition for expedited relief, filed with the Commission on March 5, 1975, and that Apostolic had earlier filed a petition for immediate relief with the Commission on February 26, 1975, in which it sought a continuance in this proceeding on the ground, *inter alia*, that its church was seriously damaged and therefore, its president, Charles R. Cobb, who is also the Bishop of the Apostolic Council of Churches, would be unable to prepare adequately for the hearing. (Cobb asserts in an affidavit dated March 8, 1975, that the church was moved off of its foundation and a large hole was torn in the roof.) Apostolic suggests that Flowers' attempt to have Cobb cease repairs was related to Rocket's plans to photograph the church, since a photograph of Apostolic's church, taken March 2, 1975, is attached to Rocket's petition for expedited relief. On March 3, 1975, the Commission issued an Order, FCC 75-254, postponing the hearing scheduled for that date pending further order of the Commission, and on August 12, 1975, the Commission released a Memorandum Opinion and Order, FCC 75-927, granting in part Apostolic's petition for immediate relief and dismissing as moot Rocket's petition for expedited relief.

[8] No affidavit from Cobb to this effect has been submitted with Apostolic's petition; however, Apostolic's petition for leave to amend, filed February 13, 1975, contains the same allegations, and attached to the petition is a blanket affidavit from Cobb attesting to the truth of the factual representations contained therein.

[9] The letter was submitted to the Commission in support of Rocket's motion to enlarge issues, filed October 7, 1974, along with an affidavit of Reehling stating that he had personally spoken with George Maddox whose property abuts 309 Pear Street, and that Maddox was opposed to the erection of a radio tower or antenna structure on the adjoining property. Apostolic submits an affidavit of George Ernest Maddox, Sr., stating that he does not oppose the erection of a radio tower or antenna structure on the adjoining property and that he "was mislead [sic] by Mr. Paul Reehling to think that the structure proposed was a great huge thing that would extend on my property."

[10] Apostolic contends that in the letters of October 31 and December 10, 1974, Flowers failed to provide reasons for his denials as required by Section 102.3 of the Fort Valley Zoning Ordinance. Upon inquiry by Apostolic's counsel, Flowers advised that the proposed tower was not a permitted use of the Pear Street property which was zoned residential.

[11] Flowers also advised Cobb that a Tower over 40 ft. high would violate the Ordinance, that the property was too small, and that it abutted a residential district. (In support, Apostolic submits the affidavit of Earnest C. Marshall who witnessed the discussion between Cobb and Flowers.) Apostolic asserts, to the contrary, that although Article VIII of the Zoning Ordinance provides for a 40 ft. maximum height in the industrial zone, Section 95 specifically exempts transmission towers. In addition, Apostolic contends that its plan meets the minimum setback requirements for the industrial zone, that the abutting property is not a residential district, and that the owners of the abutting property have no objection to the erection of a radio tower. However, no affidavits from adjoining property owners are attached to Apostolic's petition.

[12] Affidavits to this effect from Otis Mathis, Jr., a detective sergeant with the City of Fort Valley, who spoke to Ray McWilliams and from Captain Willie Talton, both dated March 14, 1975, are included with Rocket's opposition. Mathis asserts that he was not driving a marked police automobile.

[13] Apostolic argues that no members of the public appeared before the Appeal Board at the time of the public hearing on March 6, 1975, and that Apostolic was not provided with any notice that a further meeting would be held on March 14, nor was any notice published in the newspapers.

[14] Apostolic also alleges that A. L. Benjamin, the first signatory on Rocket's petition, was told by Flowers that Apostolic's tower would be in a residential zone, but Apostolic fails to provide an affidavit from Benjamin.

that it had no notice or knowledge of the Utility Commission's meeting. With respect to the Utility Commission's decision, Apostolic points out that the vote to deny its permit was based on the remarks of one individual that if the tower fell, it might interfere with electric power lines. To rebut this argument, Apostolic attaches an unnotarized statement from the Senior Communications Engineer and Assistant Vice President of the Southern Railway Company, dated January 8, 1975, to the effect that they have placed in service one hundred towers over the past fifteen years and have experienced no problems from wind, snow or ice.

7. We believe that Apostolic's allegations necessitate further inquiry into the facts surrounding Rocket's submission of the February 28, 1975 affidavit of Frank Flowers. The affidavit, which was submitted in support of Rocket's petition for expedited relief, directly contradicts Flowers' later remarks to Cobb, as described in Cobb's affidavit, dated March 8, 1975. Moreover, Rocket's explanation that Flowers directed Cobb to stop repairs on the church until an inspection could be made appears to be inconsistent with Flowers' statement in the February 28, 1975 affidavit that he inspected the church on February 20, 1975. The Board does not ordinarily add misrepresentation issues on the basis of hearsay affidavits. However, in a companion document being adopted this same date, the Board is adding a misrepresentation issue against Apostolic predicated on our consideration of the same affidavits. Since it appears from the conflict that someone may not be telling the truth, the Board is of the view that addition of an issue against Rocket, as well as Apostolic, is appropriate to insure a full exploration of the veracity of both applicants regarding this matter.

8. The Board also believes that petitioner has raised serious questions warranting the addition of further issues. We have previously emphasized that any attempt to harass, frustrate or obstruct the prosecution of a competing application will not be condoned, and that while an applicant has the right to investigate its adversaries, it may not misuse investigative procedures. See *WIOO, Inc.*, FCC 73R-338, 28 RR 2d 685 (1973); *Chronicle Broadcasting Co.*, 19 FCC 2d 240, 16 RR 2d 1014 (1969), review denied 19 RR 2d 204 (1970). In the Board's view, a serious question has been raised as to whether Rocket has exceeded the bounds of permissible investigation by using off-duty police officers to question is opponent's volunteer employees. The use of law enforcement officials raises a question of possible intimidation given the circumstances here, *i.e.*, that Fort Valley is a relatively small community [1] in which Reehling has a prominent official position, and could dissuade the volunteers from continuing their involvement in the proceeding. *Cf. Chronicle Broadcasting Co., supra*, 19 FCC 2d at 244, 16 RR 2d at 1019. As a related matter the Board is of the view that a substantial question has been raised as to whether Reehling and Flowers have acted to obstruct Apostolic's efforts to obtain a building permit. Although there are conflicting and, in many instances, unsupported allegations, the pleadings suggest that Reehling may have used his position as Mayor to influence Flowers concerning the Pear Street site. One indication of this is the fact that Reehling was apparently informed that Apostolic would not be granted a building permit for that site before any application for such had been made. In addition, the series of permit applications made by Apostolic for the Benjamin Street site together with the subsequent denials by Flowers and accompanying inconsistent explanations evidence a possible pattern of conduct by Rocket to obstruct and/or undermine the prosecution of Apostolic's application. *Cf. Sumiton Broadcasting Co.*, 45 FCC 2d 933, 29 RR 2d 1163 (1974); *WIOO, Inc., supra*, and *Chronicle Broadcasting Co., supra*.

9. We would like to take this occasion, without in any way casting a reflection upon the particular parties before us, to make clear that we consider motions to enlarge issues to examine alleged misconduct to be a serious matter for both parties. Obviously, if the charges are substantiated the matter is serious for the party engaging in the misconduct. It should be equally understood that charges of character deficiency are not to be made as "bargaining chips" or for other tactical purposes. Absent good cause, any failure to pursue the matter actively at the hearing when an issue is added will be deemed a serious blemish upon the fitness of the party who initiated the issue. The filing of motions to add issues to a hearing substantially adds to the complexity and expense of the hearing for all parties. The Board does not add issues lightly, and we wish to make clear that the parties to the proceeding are expected to view the matter in the same light. As noted above, our comments on this matter are not intended to indicate that we think the parties to this hearing are not proceeding in good faith. We have rather chosen this occasion to make a statement which we hope will be given general consideration by parties to Commission hearings.

CONCENTRATION OF CONTROL ISSUE

10. Apostolic's request for a concentration of control issue is predicated on the fact that as president of Rocket, Paul Reehling controls the only local broadcast station in Fort Valley (WFPM) and that as Mayor, Reehling wields considerable political power in the community. It is argued by Apostolic that "the combination of Mr. Reehling's political and broadcast positions require that he be prohibited from obtaining a further voice in the community." The Board agrees with Rocket and the Broadcast Bureau that the requested issue is unwarranted. Rule 73.240(a)(2), as pointed out by the Bureau, in no way inhibits the acquisition by a daytime-only AM licensee of an FM station in the same community. Standing alone, Reehling's broadcast interest and position as Mayor do not raise a question of undue concentration of control of the local communications media. Moreover, petitioner has failed to provide any factual data concerning the areas and populations to be served and the extent of other competitive service to the areas in question. See Rule 73.636(a)(2); *Post-Newsweek Stations, Florida, Inc.*, 52 FCC 2d 887, 33 RR 2d 997 (1975) and *National Broadcasting Company, Inc. (KNBC)*, 21 FCC 2d 195, 18 RR 2d 74 (1970), rev'd in part on other grounds FCC 70-691, released July 7, 1970. In fact, petitioner concedes that the community of Fort Valley is served by two newspapers. In light of these facts, the Board finds Apostolic's allegations insufficient to warrant the specification of an issue; however, Reehling's ownership in WFPM may be considered under the diversification criterion of the standard comparative issue. See *William R. Gaston*, 35 FCC 2d 624, 24 RR 2d 779 (1972).

11. Accordingly, *it is ordered*, That the petition to enlarge issues, filed March 11, 1975, by Apostolic Council of Churches, Inc., is granted to the extent indicated herein and denied in all other respects; and

12. *It is further ordered*, That the issues in this proceeding are enlarged to include the following issues:

(a) To determine the facts and circumstances relating to and surrounding the investigation of Joseph Dale Wilson and Ray McWilliams by Rocket Radio, Inc., and whether the conduct of such investigation constituted attempts to harass, coerce and intimidate such persons; and

(b) To determine whether Frank Flowers made misrepresentations in connection with the submission of an affidavit dated February 28, 1975, and, if so, to determine the role of Rocket Radio, Inc., in connection therewith; and

(c) To determine the facts and circumstances relating to the conduct of Paul Reehling and Frank Flowers concerning the efforts of Apostolic Council of Churches, Inc., to obtain a building permit and to determine whether such conduct constituted an attempt to harass, impede or obstruct the application of Apostolic Council of Churches, Inc.; and

(d) To determine the effect of the evidence adduced under issues (a), (b), and (c) above upon the basic and/or comparative qualifications of Rocket Radio, Inc., to be a Commission licensee.

13. *It is further ordered*, That the burdens of proceeding with the introduction of evidence and proof under issues (a),

[1] Fort Valley has a population of 9,251 (1970 U.S. Census).

(b), and (c) added herein shall be on Apostolic Council of Churches, Inc.,

Adopted: October 15, 1975.

Released: October 22, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-29008 Filed 10-28-75;8:45 am]

[Docket No. 20181, File No. BPH-8408; Docket No. 20182, File No. BPH-8789; FCC 75R-388]

ROCKET RADIO, INC. AND APOSTOLIC COUNCIL OF CHURCHES, INC.

Memorandum Opinion and Order Enlarging Issues

1. This proceeding involves the mutually exclusive applications of Rocket Radio, Inc., and Apostolic Council of Churches, both of Fort Valley, Georgia, for an FM construction permit. Presently before the Review Board is a petition to enlarge issues, filed July 15, 1975, by Apostolic seeking the addition of a character issue against Rocket: [1, 2]

2. In its petition, Apostolic asserts that Edmond Paul Reehling (the son of Rocket's president) obtained credit information concerning Charles R. Cobb (Apostolic's president) from the Credit Bureau of Macon, Georgia, in an unauthoried and illegal manner in an effort to ensure the disqualification of Apostolic on financial grounds.[3] Specifically, Apostolic contends that on January 6, 1975, the Credit Bureau of Macon received an inquiry about Cobb from the Dixie Finance Company. On this date, there were three employees at Dixie, including Edmond Paul Reehling, petitioner maintains, and in view of the affidavits of the other two employees, both of whom deny requesting the information on Cobb, it must be assumed that Reehling made the credit request. As for the request itself, it is Apostolic's assertion that this inquiry by Reehling was not authorized by Cobb, that it violated the Fair Credit Reporting Act, and that it involved the use of false pretenses, in that Reehling improperly represented himself as acting on behalf of Dixie.[4]

3. In opposition, Rocket asserts that Reehling did not at any time request credit information concerning Cobb from the Credit Bureau of Macon and was not instructed to do so by any person, and submits in support thereof an affidavit to this effect from Reehling. Further, Rocket contends, even if Reehling had requested the information concerning Cobb, Apostolic has not shown that such an action has been held to violate the Fair Credit Reporting Act by the Federal Trade Commission, the government agency responsible for enforcing the Act, or that it would in fact violate this statute.

4. The Review Board will add the requested issue. The circumstances relied on by Apostolic are, in our opinion, sufficient to raise a serious question concerning Edmond Paul Reehling's role in obtaining an unauthorized credit request, and these questions cannot be resolved solely on the basis of Reehling's self-serving denial of any wrongdoing. Moreover, while we agree with Rocket that an inquiry of the kind allegedly made by Reehling has not been held expressly to violate the Fair Credit Reporting Act, we do not agree that this fact precludes any further investigation of the action in question. Even where no suit charging illegal conduct has been filed or no formal complaint made, the Commission may consider and evaluate conduct which allegedly violates Federal law or is otherwise improper insofar as this conduct may relate to an applicant's ability to operate a broadcast station in the public interest. See *Violations by an Applicant of Laws of the U.S.*, 42 FCC 2d 399, 1 RR Part 3 91:495 (1951), *Cf. Gross Telecasting, Inc.*, FCC 75-1035, released September 16, 1975, 34 RR 2d 1491. Since, in our view, the alleged conduct in question could well have involved misrepresentation to procure credit information about a principal of a competing applicant, it could reflect upon Rocket's qualifications to be a Commission licensee whether or not there was a violation of the statute.[5]

5. Accordingly, *it is ordered*, That the petition to enlarge issues, filed July 15, 1975, by Apostolic Council of Churches, Inc. is granted; and

6. *It is further ordered*, That the issues in this proceeding are enlarged to include the following issue:

[1] To determine whether Edmond Paul Reehling obtained credit information concerning Charles R. Cobb in an unauthorized manner and whether this information was obtained at the request of a principal of Rocket Radio, Inc., and, if so, to determine the effect thereof on Rocket Radio, Inc.'s basic and/or comparative qualifications to be a Commission licensee.

7. *It is further ordered*, That the burden of proceeding with the introduction of evidence under the issue added herein shall be on Apostolic Council of Churches, Inc., and the burden of proof shall be on Rocket Radio, Inc.

Adopted: October 15, 1975.

Released: October 21, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-29004 Filed 10-28-75;8:45 am]

[Docket Nos. 20510, 20511, 20512; File Nos. BPH-8873, BPH-9015, BPH-9211; FCC 75R-394]

HAROLD JAMES SHARP, ET AL.

Memorandum Opinion and Order Enlarging Issues

1. This proceeding involves the mutually exclusive applications of Harold James Sharp, Greater Ocala Broadcasting Corporation (GOBC), and Hunter-Arnette Broadcasting Company (Hunter-Arnette) all of Ocala, Florida, for construction permits for a new FM broadcast station at Ocala, Florida. Presently before the Review Board is a third petition to enlarge issues, filed September 3, 1975, by GOBC, which seeks to add an issue to determine whether Hunter-Arnette has failed to disclose material facts concerning its technical proposal, whether such non-disclosure constitutes an affirmative misrepresentation to the Commission, and the effect of such conduct on Hunter-Arnette's basic and/or comparative qualifications to be a Commission licensee.[1]

2. In support of its petition, GOBC first asserts that Hunter-Arnette's failure to timely disclose to the Commission the Federal Aviation Administration's determination that its technical proposal for a new FM broadcast station in Ocala, Florida, would constitute an air hazard warrants a Rule 1.65 issue. Specifically, GOBC alleges that on July 27, 1974, Hunter-Arnette was advised by the FAA that its proposed tower could be a hazard to air navigation; that, on February 21, 1975, the FAA informed Hunter-Arnette that this definitely was the case; and that it was not until July 22, 1975, that the applicant took steps to inform the Commission of these facts.[2] GOBC further asserts that Hunter-Arnette also failed to timely report that vital portions of its engineering proposal were in error—portions directly relevant to the "areas and populations" issue—even

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[1] Also before the Board are the following related pleadings: (a) opposition, filed August 8, 1975, by Rocket; (b) comments, filed August 7, 1975, by the Broadcast Bureau; (c) reply, filed August 20, 1975, by Apostolic.

[2] By Memorandum Opinion and Order, FCC 75-927, released August 12, 1975, the Commission referred the above petition and its related pleadings to the Review Board.

[3] A financial issue against Apostolic has been designated in the proceeding.

[4] In view of Apostolic's six month delay in bringing this matter to the Commission's attention, the Board must conclude that its petition is untimely. We will, however, consider its allegations on their merits because of the importance of the issues raised. See *The Edgefield-Saluda Radio Co.*, 5 FCC 2d 148, 8 RR 2d 611 (1966).

[5] *Cf. Theodore Granik and William H. Cook v. FCC*, 234 F.2d 682, 13 RR 2185 (D.C. Cir. 1956), where the Court stated that "good faith and fair dealing bear upon the public interest."

[1] Also before the Board are the following related pleadings: (a) opposition, filed September 16, 1975, by Hunter-Arnette; (b) comments, filed September 15, 1975, by the Broadcast Bureau; and (c) reply, filed September 19, 1975, by GOBC.

[2] Thereafter, pursuant to a petition filed by the Broadcast Bureau, the Review Board aded an air hazard issue against Hunter-Arnette (FCC 75R-333, released September 5, 1975).

though it was aware of the error.[3] Because of this error, GOBC alleges, it has been seriously prejudiced. Finally, petitioner asserts that Hunter-Arnette may have affirmatively misrepresented the status of its technical proposal in order to avoid the possibility of technical disqualification. The Broadcast Bureau, in its comments, supports petitioner's request for an issue inquiring into the alleged failure to report the adverse FAA determination.

3. In opposition, Hunter-Arnette initially argues that the Commission does not require prior FAA approval before an application is submitted for filing, nor does it require an applicant to make any specific showing as to FAA approval in any portion of the application form for construction permits and, therefore, no non-disclosure or misrepresentation exists.[4] Hunter-Arnette next asserts that its application, as originally filed, contained a statement that the area within the proposed 1 mV/m contour was 673 square miles. However, opponent submits, the application was subsequently amended to reflect the population of persons within the 1 mV/m contour and, through some unexplained circumstance, the area within the contour was changed to 425.5 square miles. This error was inadvertent and recently discovered, Hunter-Arnette asserts, and it alludes to the affidavit of John H. Mullaney, its consulting engineer, who explains that this latter figure could not follow as a mathematical result and, therefore, that no misrepresentation is present.

4. In reply, GOBC contends that the Commission's rules do require the reporting of significant changes in air clearance information, particularly where an adverse FAA determination exists.[5] GOBC argues that it was not until February 21, 1975, that the FAA made its final determination that Hunter-Arnette's proposal had a "substantial adverse effect upon aeronautical operations." GOBC also argues that Hunter-Arnette did not notify the applicants or the Commission of this adverse determination.[6] Finally, GOBC asserts that Hunter-Arnette's failure to voluntarily and timely inform the Commission of the foregoing facts necessitates addition of non-disclosure and misrepresentation issues.

5. The Review Board will add a Rule 1.65 issue. In our view, Hunter-Arnette's failure to inform the Commission until July 1975 of the FAA's February 1975 adverse determination as to its proposed tower warrants an evidentiary inquiry.[7] Although, as Hunter-Arnette argues, the application form does not require an applicant to make a specific showing as to FAA approval, nevertheless, we believe it is clear from both the Commission's rules and case law that where a proposal constitutes a serious hazard to air navigation, this fact is decisionally significant and must be reported to the Commission. See Rule 17.4; *Cf. Athens Broadcasting Co., Inc.*, 27 FCC 2d 7, 20 RR 2d 1115 (1971). However, we will add the issue as a comparative basis only since there is no indication of deliberate concealment on the part of Hunter-Arnette.[8] Nor, for the same reason, is there any basis for adding a separate misrepresentation issue. Finally, we will not authorize inquiry into Hunter-Arnette's representation of its area coverage since, in view of the Mullaney affidavit and the other circumstances before us, it appears that the incorrect figure contained in the amendment was merely an inadvertent error.

6. Accordingly, *it is ordered*, That the petition to enlarge issues, filed September 3, 1975, by Greater Ocala Broadcasting Corporation, IS GRANTED to the extent indicated herein, and is denied in all other respects; and

7. *It is further ordered*, That the issues in this proceeding are enlarged to include the following issue:

To determine whether Hunter-Arnette Broadcasting Co., has failed to comply with Rule 1.65 by not reporting an adverse determination by the FAA as to its proposed tower and, if so, the effect of such noncompliance on Hunter-Arnette's comparative qualifications.

Adopted: October 20, 1975.

Released: October 23, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-29007 Filed 10-28-75;8:45 am]

[3] Specifically in question, petitioner asserts, is Hunter-Arnette's statement in an amendment submitted on August 27, 1975, that its proposed service area includes 659 square miles as opposed to the representation in its original application that its service area contains 425 square miles. Petitioner's figures, taken from a discussion at the hearing, are in error although, as set forth in the text, Hunter-Arnette did incorrectly state the square mileage figure in its amendment.

[4] Hunter-Arnette also asserts that the Commission and GOBC were fully aware as early as November 29, 1974, that the FAA had problems with its site, and that the Commission was advised by the FAA of its disapproval of the transmitter site in February, 1975.

[5] GOBC asserts that Hunter-Arnette's contention that both the Commission and the other parties to this proceeding were aware, on November 29, 1974, of the FAA's adverse determination as to its proposed site is erroneous. GOBC further asserts that on the foregoing date, the Bureau merely made inquiry as to whether "further aeronautical study" would be requested of the FAA by the applicant.

[6] GOBC states that the "understanding" of counsel for Hunter-Arnette "that the Commission was adivsed by the FAA" of the adverse air hazard determination is erroneous. Rather, GOBC states, at the July 22 prehearing conference, counsel for the Broadcast Bureau requested an explanation of the status of the FAA clearance problem. In any case, GOBC asserts, informal notice by the FAA to the Commission would not satisfy Hunter-Arnette's obligations under Rule 1.65.

[7] *Cf. Total Radio, Inc.*, 51 FCC 2d 771, 32 RR 2d 653 (1975).

[8] See generally Part 17 of the Commission's Rules which adverts to the Interrelationship between th FAA and the Commission regarding the subject.

[Docket No. 20649 RM-2531; FCC 75-1168]

TELEVISION PROGRAMMING

Non-Interconnected Distribution to Certain Foreign Stations; Notice of Inquiry

1. The Commission has under consideration a "Petition for Rule Making" submitted on behalf of the American Broadcasting Companies, Inc. ("ABC"), which seeks the adoption of a rule intended to restrict the licensing for exhibition by foreign television stations of programs which are produced in the United States and shown on foreign stations regularly received in the United States prior to national network exhibition in this country (hereinafter referred to as "prerelease" or "prerelease programming"). Responses in support of the petition were filed by Flower City Television,[1] the Brockway Company[2] and Great Lakes Communications, Inc.,[3] with joint responses being filed by WBEN, Inc., Taft Broadcasting Co., and Capital Cities Communications, Inc. ("WBEN"),[4] and by Community Broadcasting Service and Aroostock Broadcasting Corp. ("Community").[5] A response opposing the petition was jointly filed by Columbia Pictures Industries, Inc., MCA, Inc., Paramount Pictures Corp., Twentieth Century Fox Film Corp., and Warner Bros., Inc. ("program suppliers"). Replies to responses were submitted on behalf of ABC and WBEN.

2. Prelease programming occurs when a television station, in this case a Canadian station consistently received in the United States, airs a program in advance of the time the same program is scheduled to appear on network-affiliated stations in the United States. As a concurring statement joined in by four Commissioners explained,[6] the ability of Canadian stations to air programs in advance of their showing on U.S. stations stems from the fact that Canadian licensees seek, and program suppliers grant, prerelease rights for specific programs and series of programs. Programs presented by Canadian TV stations on a prerelease basis may be seen by viewers in the U.S. either by tuning to the Canadian TV station directly or by subscribing to a cable television system in this country which imports the signals of Canadian TV stations. In either case, the viewer is able to see programs which, in many instances, will not be seen on

[1] Flower City is licensee of television Station WOKR, Rochester, New York.

[2] The Brockway Company is licensee of WWNY-TV, Carthage-Watertown, New York.

[3] Great Lakes Communications, Inc., is licensee of WICU-TV, Erie, Pennsylvania.

[4] Taft Broadcasting Co., is licensee of WGR-TV, Capital Cities Communications is licensee of WKBW-TV, and WBEN, Inc. is licensee of WBEN-TV. All stations are located in Buffalo, New York.

[5] Community Broadcasting Service is licensee of WABI-TV, Bangor, Maine; Aroostock Broadcasting Corp. is licensee of WAGM-TV, Presque Isle, Maine.

[6] *United Community Antenna Systems, Inc.*, 49 F.C.C. 2d 873 (1974) at p. 877; reconsideration denied 52 F.C.C. 2d 389 (1975), appeal pending.

U.S. network-affiliated stations until a later time. The result of this practice, say ABC and the supporters of its petition, is that viewers in this country prefer to watch Canadian TV stations rather than those in this country. Community, Great Lakes, and Brockway assert that U.S. network affiliates located along the U.S-Canadian border experience a diminution of their viewing audiences as a result of the prerelease practice. It is our own observation that the growth of cable systems and increased over-the-air reception along the northern border areas of the United States (with the resultant increase in Canadian TV viewing opportunities for viewers in this country) may have elevated the prerelease practice, once thought to be insignificant, to a matter of genuine concern. Moreover, it is apparent that whatever problem presently exists in this regard will be exacerbated by the new Toronto television supporting structure which, when completed, will enable Toronto TV stations to deliver Grade A signals to Buffalo.

3. The effect of Canadian prerelease practices upon U.S. licensees is not a matter of first impression for the Commission. On numerous occasions, usually in the context of cable television proceedings, we have been asked by affected television licensees either to grant protective relief or deny the request of a cable system operator for permission to import the signals of Canadian stations carrying prereleased programming. In the earlier stages of cable television development, we described the Canadian prerelease problem as not widespread enough to warrant relief by rule making, though we did indicate that special *ad hoc* program exclusivity relief might be available in certain circumstances.[7] Thereafter, in three separate actions, we granted protection against the importation of Canadian prereleased programming by U.S. cable television systems.[8] Later, relying upon accumulated experience and changing circumstances in the prerelease area,[9] we required U.S. licensees seeking exclusivity protection from prereleased programming to demonstrate that the practice would result in the reduction of audiences, revenues, and profits to a point where programming services would be significantly impaired.[10] More recent decisions involving requests by U.S. licensees for protection from imported Canadian prereleased programming have reiterated the necessity for showing that the practice itself results in an adverse financial impact upon the licensee.[11] Though most showings have been found to be legally insufficient to support a grant of the relief requested, we have nevertheless continued to view the Canadian prerelease programming practice as a legitimate concern.[12]

4. In its petition, ABC outlines what it says is the general problem of Canadian prerelease programming vis-a-vis U.S. broadcasters; develops a theory of jurisdiction premised on the "delivered" language of Sec. 325(b) of the Communications Act of 1934, as amended; [13] and advances a specific proposal which it says will resolve the prerelease problem for broadcasters in this country.[14] ABC says it has attempted to negotiate with the program suppliers for more favorable distribution rights, but to no avail. It concludes that economic and competitive considerations have closed off the bargaining approach as a feasible solution and asserts that Commission action is the most prompt and effective remedy available. Urging that the prerelease problem be viewed in the larger context of recent Canadian government action,[15] ABC submits that the Commission has jurisdiction under which it may adopt rules regulating the licensing for exhibition in foreign countries of television programs produced in this country where the programs would first be shown on foreign stations that can be regularly received in this country.

5. WBEN's memorandum in support of ABC's petition is devoted, in large part, to an analysis of the programming of five Toronto-Hamilton, Ontario, television stations and a discussion of the possible effects to be realized from the imminent use by three Toronto TV stations of a new 1,805-foot observation and communications tower located in Toronto. The essence of the argument presented by WBEN is that the prerelease practices of the Canadian stations are already having a deleterious effect on U.S. stations located in the Buffalo market, and that inauguration of the new Canadian transmitting facilities (which will allow Grade A signals to be placed over the city of Buffalo) will, as already noted, only aggravate the problem further.

6. The remaining responses supportive of ABC's petition renew the concern expressed by WBEN and ABC over the new Toronto tower, and assert that Canadian prerelease programming, whether seen by U.S. viewers directly or by cable importation, adversely affects U.S. television licensees.

7. The program suppliers disagree with the arguments advanced by ABC and the supporters of the petition, asserting that the "physical delivery" theory of jurisdiction proposed by ABC was judicially repudiated nearly four decades ago.[16] Further, they contend that Sec. 325(b) was enacted not to deal with the practices at issue in this proceeding, but rather with objectionable programming and "outlaw" broadcasting of the type that prevailed along the U.S.-Mexican

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[7] *Memorandum Opinion and Order, Docket No. 14895*, 6 F.C.C. 2d 309 (1967) citing *Second Report and Order on Cable Television*, 2 F.C.C. 2d 7 (1966).

[8] *Jamestown Cablevision, Inc.*, 6 F.C.C. 2d 635 (1967); *Northern Microwave Service, Inc.*, 7 F.C.C. 2d 115 (1967); *General Electric Cablevision Corp.*, 10 F.C.C. 2d 739 (1967).

[9] *Colorcable, Inc.*, 25 F.C.C. 2d 195 (1970).

[10] *In Re CBS, Inc.*, 25 F.C.C. 2d 212 (1970).

[11] *Vanhu, Inc.*, 47 F.C.C. 2d 1244 (1974); reconsideration denied, 51 F.C.C. 2d 211 (1975), appeal pending, sub nom., KIRO, Inc., Nos. 75-1233, 75-1390 (D.C. Cir.).

[12] *Nationwide Cablevision, Inc.*, 49 F.C.C. 2d 659 (1974); reconsideration denied, 51 F.C.C. 2d 522 (1975). See also the concurring statement in *United Community Antenna Systems, Inc., supra*.

[13] Section 325(b) reads:

"(b) No person shall be permitted to locate, use or maintain a radio broadcast studio or other place or apparatus from which or whereby sound waves are converted into electrical energy, or mechanical or physical reproduction of sound waves produced, and caused to be transmitted or delivered to a radio station in a foreign country for the purpose of being broadcast from any radio station there having a power output of sufficient intensity and/or being so located geographically that its emissions may be received consistently in the United States, without first obtaining a permit from the Commission upon proper application therefor."

It should be noted that the present Section 325(b) is a verbatim descendant of a proposed amendment to Section 28(a) of the Federal Radio Act which was superseded by the Communications Act of 1934. The proposed Section 28(a) was subsequently incorporated into the Communications Act prior to its passage. The greater part of the legislative history of Section 325(b) is, therefore, found in the hearings and deliberations on the amendment to Section 28 of the Federal Radio Act.

[14] The proposed regulation offered by ABC states:

"Television programs produced in the United States for national network exhibition in the United States, shall not be licensed for exhibition by a foreign television station which can be regularly viewed in the United States, either by off-the-air reception or cable television service, upon terms which permit such foreign exhibition prior to first United States national network exhibition except pursuant to an authorization issued under Section 325(b) of the Communications Act."

[15] These actions include a Canadian Radio-Television Commission ("CRTC") policy that commercial material be deleted from U.S. programs imported for airing on Canadian cable television systems, and a legislative proposal to eliminate business expense tax deductions for advertising placed by Canadian firms on U.S. broadcast stations.

[16] *Baker v. U.S.*, 93 F. 2d 332 (5th Cir. 1937), *cert. denied*, 303 U.S. 642 (1938), which held that the physical delivery of records and transcriptions to a Mexican station, as opposed to the delivery of programs by means of wireline interconnection, did not require the issuance of a program export permit under Section 325(b) of the Communications Act, *supra*. That determination was, however, made in the context of a criminal proceeding, and is otherwise distinguishable from the "prerelease" practice here considered.

border in the mid-1930's.[17] The program suppliers also contend that adoption by the Commission of a rule such as that proposed by ABC would result in the violation of certain of the program suppliers' First Amendment rights, and would require the Commission to assume a policy position contrary to that of the Government of the United States which has openly advocated a free and unimpeded flow of information across international borders.

8. The basic jurisdictional issue raised in this proceeding was recently considered in *Time Sales, Inc.*[18] There, we held that the physical delivery of programming materials across international borders for use by foreign brodcast stations whose signals are consistently received in this country was among the activities proscribed by Sec. 325(b) where prior Commission authorization for delivery had not been obtained. The question, we said, was not one of Commission jurisdiction over the subject matter for the meaning of the statute was clear; instead, the issue was one of statutory interpretation and application of the Act to the facts of the case.[19] The situation in the present proceeding is similar. The plain language of the statute and a careful review of the legislative history leading to the enactment of the statute persuades us, as it did in the *Time Sales, Inc.* decision, that the Commission has the necessary jurisdiction under which it may act if required to protect the public interest. Moreover, as mentioned in para. 14, below, there are possible approaches to this subject based on other statutory provisions. The only issues before us are whether and how the statute should be applied.

9. Although the Canadian prerelease practices have been described by various parties as a "problem," the nature and extent of the "problem" remains essentially undefined. The effect of the prerelease practice on viewers, licensees, cable television system operators, program suppliers, networks, and the interrelationships between those parties, has not, to our knowledge, been specifically examined, particularly in the context presented here. Nevertheless, all of the above have a particular stake in any public interest determination. The record in the present proceeding adds little to the meager body of information already available. Because Canadian prerelease practices appear to be assuming an increasing significant role in telecommunications relations with Canada, it seems appropriate to assemble as much relevant information as is available on the subject so that future decisions in this area will be based on an informed and objective understanding of the prerelease practice. Accordingly, the most reasonable approach in our opinion is to undertake an inquiry which will enable us to determine whether or not the public interest requires regulatory intervention.

10. We therefore invite all interested parties to submit comments on, or related to, the questions posed below.[20] Although parties are encouraged to consider and comment on all aspects of the inquiry, they should, at a minimum, respond to the questions contained within the appropriate headings.

(a) *General Inquiry.* Are existing Canadian prereleaed practices harmful to the public interest? If so, what remedies other than Commission intervention are available? If program suppliers are required to apply for program export permits, by what criteria should they be judged?

(b) *Specific Inquiry: Viewing Public:* The perspective of the inquiry will be enhanced by the receipt of comments from members of the general public and public interest groups who may wish to inform the Commission of their opinions as to whether the existence of the Canadian prelease practice is beneficial or detrimental to the public interest.[21] Does the existence of the prerelease practice provide an increased diversity of viewing opportunities? If so, is the advantage outweighed by other consequences adverse to the public interest?

(c) *Licensees: Which U.S. markets are exposed to the Canadian prerelease practices either as the result of cable importation or direct over-the-air reception? What amount of programming* produced for U.S. network exhibitions is broadcast in Canadian markets on a prerelease basis? How much is telecast during prime time hours? How much prereleased programming is ultimately available for viewing in the various American markets? To what extent have U.S. licensees sustained an actual and quantifiable reduction in U.S. audiences, revenues, and profits as a result of exposure to the prerelase practice? Has exposure to the practice resulted in the impairment of public affairs or other program services rendered by U.S. licensees? What is the nature of this impairment? To what extent does the concern over the prerelease practice, expressed by proponents of the petition, reflect actual or potential loss of U.S. viewers, and to what extent does it represent actual or potential loss of Canadian viewers to U.S. stations? The Commission expects parties responding to these questions to substantiate their responses by providing comparative analyses of market rating surveys illustrating audience shares and ratings held by both U.S. and Canadian television stations. It would greatly assist the Commission if licensees submitted relevant financial data supportive of allegations that the prerelease practice has effectuated an erosion in revenue and profits.[22]

(d) *Program Producers and Suppliers:* What amount of programming produced for exhibition on U.S. television networks is distributed with prerelease rights to Canadian licensees or network organizations? What means are used to effectuate distribution of the programming to Canadian licensees? To what extent are brokers, syndicators and other "middle men" utilized in the distribution chain? Within the industry, are program producers and program suppliers commonly the same entity? Which of the above use or maintain studios or other production centers within which the programming is filmed or taped? What economic consequences can be reasonably expected to result for the program production industry if the prerelease practice is curtailed or eliminated as the result of Commission regulation? Parties are invited to discuss the possible effects on program pricing should the present foreign distribution system come under Commission regulation. Comments are also invited on the question of the extent to which the welfare of the U.S. program production industry is a public consideration which the Commission should take into account in this matter.

(e) *Cable systems:* What would be the resultant effect upon domestic cable systems if the Commission should act to regulate the participation of U.S. program suppliers in the prerelease programming practice? Do domestic cable system operators utilize the availability of Canadian prerelease programming in efforts to gain cable system subscribers? What would be the impact, if any, of a proposal to prohibit the carriage by domestic cable television systems of prereleased programming aired by Canadian stations whose signals are imported by cable systems for exhibition in this country? Would Commission regulation of certain program supplier practices adversely affect the economic viability of Cable systems and thus the public interest in an expanding cable service?

(f) *Networks:* To what extent is programming obtained by the U.S. television

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[17] The legislation was primarily designed to curb the activities of medical charlatans who, at the time, were brokering Mexican border stations from studios established in Texas. The abuses cited in the legislative history do not define the limits of the Commission's jurisdiction in this area. See *American Broadcasting Companies, Inc.*, 35 F.C.C. 2d 1 (1972), affirmed per curiam *American Broadcasting Companies, Inc.* v. *F.C.C.*, Case No. 72-1612 (D.C. Cir. 1972), 26 R.R. 2d 203 (1972). See also *Wrather-Alvarez Broadcasting, Inc.* v. F.C.C., 248 F. 2d 646 (1957).

[18] *Time Sales, Inc.*, 48 F.C.C. 2d 246 (1974); reconsideration denied, 49 F.C.C. 2d 1403 (1974).

[19] 49 F.C.C. 2d 1403, 1404 (1974).

[20] Relevant information already submitted by interested parties in RM-2385, entitled "Petition for Rule Making to Ban the Carriage of Canadian Television Signals Within Stations' Specified Zones, and Require CATV Systems Presently Carrying Canadian Signals to Afford Local Market Stations Pre- and Post-Release Network Program Exclusivity as Against Those Canadian Television Signals," will also be considered in this proceeding.

[21] This is in accordance with Commission action of August 1, 1975. (F.C.C. Public Notice. Mimeo. 53701, released August 7, 1975.)

[22] As a part of this inquiry, the Commission will also review information submitted by licensees on Form 324, "Annual Financial Report of Networks and Licensees of Broadcast Stations." This information may be used to arrive at some general conclusions with regard to the issues of the economic impact of the Canadian prerelease practice.

networks for national exhibition also provided to Canadian licensees with prerelease exhibition rights? Has the prerelease practice resulted in benefit or detriment to the public interest in having viable U.S. television network services? Explain. What benefits or disadvantages, both direct and indirect, could be expected to accrue to the three national television networks should the Commission decide to adopt regulations restricting the export of program material intended for prerelease? Are private remedies, either of a formal or informal nature, available which would eliminate the need for Commission regulatory intervention? Is the public interest better served by reliance upon competitive forces in the market place or by Commission intervention? Assuming that prerelease should be stopped by Commission intervention, could scheduling be arranged to provide for simultaneous carriage of network features by television stations in both countries? If such simultaneous arrangements could not be worked out, what would be the consequences?

11. It is not our intention to limit the *Inquiry* solely to those areas of concern enumerated above. Interested parties are encouraged to submit any relevant information which may assist the Commission in resolving the questions raised by the prerelease practice.

12. *Alternative approaches to the "pre-release" problem.* The ABC petition, and the foregoing discussion of it, represent an approach to the "pre-release" problem (assuming it is a problem) based on § 325(b) of the Act—the Commission's authority to prohibit or condition the supplying of programs from the U.S. to foreign stations regularly received in the U.S. In our view, this is not the only possible approach to this subject, since there appear to be others which could be used (and which conceivably would be simpler) if it is established that, in fact, the prerelease matter requires Commission action. One would be the adoption of regulations applying to those who supply programs to U.S. television networks (producers or distributors), under the Commission's established authority to adopt rules governing entities and practices having a substantial impact on broadcasting. *U.S. v. Southwestern Cable Co.*, 392 U.S. 157 (1968)[24]. Such a regulation, for example, might prohibit such persons or entities from releasing their regular network entertainment series programs, contracted for by a U.S. network, to foreign stations, networks, or broadcasting authorities on terms which would permit showing on stations regularly received in the U.S. (directly or via cable) at a time earlier than their carriage on the U.S. network. Another approach would be the adoption of regulations applying to the U.S. networks, in this respect similar to the "financial interest" and "syndication" rules adopted in 1970 (§ 73.658(j)). Further, our cable television rules could be revised to restrict the importation of prereleased Canadian television programs. We are not here proposing these or any other specific regulations; comments are invited on any of these approaches, or others, in addition to the ABC approach based on § 325(b).

13. Authority for the *Notice of Inquiry* is contained in Section 403 of the Communications Act of 1934, as amended.

14. Pursuant to applicable procedures set forth in § 1.415 of the Commission's Rules, interested parties may file comments on or before November 28, 1975, and reply comments on or before December 8, 1975. All relevant and timely comments and reply comments will be considered by the Commission before action is taken herein. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this *Notice*.

15. Section 1.419 of the Commission's Rules requires that an original and 11 copies of all comments, replies, pleadings, briefs, etc. shall be filed with the Commission. This requirement will apply to the principal parties directly involved in this matter, such as the petitioner and station licensees, etc. However, the interest of the public as viewers is also involved here, and expressions from individuals may be of significance in this connection, and are encouraged. Letters and other expressions from the public will be received, placed in the docket and considered herein, even though they do not conform to the above rule. Also, the rather substantial material already filed with respect to the petition need not be filed again, but may be incorporated by reference. Material filed will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C., 1919 M Street, N.W.

Adopted: October 16, 1975.

Released: October 22, 1975.

FEDERAL COMMUNICATIONS COMMISSION,[25]

[SEAL] VINCENT J. MULLINS, *Secretary.*

[FR Doc.75-29003 Filed 10-28-75;8:45 am]

[24] This authority, under § 303(r) of the Act, would of course be limited to those situations where there is some U.S. nexus with the program to afford a basis for jurisdiction, either production in the U.S. or production or distribution by a U.S. person or entity.

[25] Dissenting statement of Commissioner Reid to be issued at a later date. Statements of Commissioners Hooks and Robinson filed as part of the original document.

[Docket No. 20300, 20301; File No. BP-19587, 19733; FCC 75R-395]

TECHE BROADCASTING CORP. AND PHILLIPS RADIO, INC.

Applications for Construction Permits

1. This proceeding involves the mutually exclusive applications of Teche Broadcasting Corporation (Teche), Bayou Vista, Louisiana, and Phillips Radio, Inc., Berwick, Louisiana, for construction permits for a new standard broadcast facility. Presently before the Review Board is a petition to enlarge and modify issues, filed January 30, 1975, by Teche seeking the addition of suburban community, misrepresentation, *Suburban*, financial, Rule 1.526, and Rule 1.65 issues against Phillips, and the deletion of the Section 307(b) issue specified in the designation Order.[1]

SUBURBAN COMMUNITY ISSUE

2. Pursuant to the Commission's *Policy Statement on Section 307(b) Considerations for Standard Broadcast Facilities Involving Suburban Communities*, 2 FCC 2d 190, 6 RR 2d 1901 (1965),[2] Teche requests inclusion of an issue to determine whether Phillips' proposal would realistically provide a local transmission facility for its specified station location, Berwick, Louisiana, or for the larger community of Morgan City, Louisiana. Teche argues that the 50,000 population test enunciated in the *Policy Statement, supra*, was not intended as an inflexible standard and that it has made the necessary threshold showing that the proposal actually seeks to serve Morgan City (1970 U.S. population 16,586) rather than Berwick (population 4,186), citing *V.W.B., Inc.*, 8 FCC 2d 744, 10 RR 2d 563 (1967); and *Harry D. Stephenson and Robert E. Stephenson*, 15 FCC 2d 335, 14 RR 2d 945 (1968). While conceding that the comparison of the communities here involved does not meet the population test enunciated by the Commission, Teche argues that the disparity in population between the two communities, coupled with an analysis of Phillips' engineering characteristics, clearly requires the addition of the issue. According to Teche, Phillips could have achieved the requisite coverage of Berwick (*i.e.*, 5 mV/m coverage of the city and 25 mV/m coverage of the business and industrial areas of the city) with 250 watts power and a non-directional antenna located at any number of suitable sites within a crescent-shaped area near Berwick.[3] Instead, however, Phillips has proposed a clearly excessive operating power of 1 kW with a directionalized antenna, designed with its major lobe directed toward and over Mor-

[1] Also before the Board are the following related pleadings: (a) comments, filed March 6, 1975, by the Broadcast Bureau; (b) opposition, filed March 7, 1975, by Phillips; and (c) reply, filed March 19, 1975, by Teche.

[2] Therein, the Commission called for an examination to determine whether an applicant's proposed 5 mV/m daytime contour would penetrate the boundaries of any community with a population of over 50,000 persons and having at least twice the population of the applicant's specified community. If such a condition were found to exist, a rebuttable presumption would arise that the applicant realistically proposes to serve the larger community.

[3] According to Teche, Morgan City would receive a 5 mV/m signal from such a facility.

gan City, Teche avers. As a result, it continues, Phillips would place a 5 mV/m signal over all of and a 25 mV/m signal over the business and industrial sections of Morgan City. Thus, not only would Phillips provide technically complete coverage of Morgan City, Teche asserts, but it would be the most powerful station serving that city, operating with from two to six times the power of Morgan City Station KRMC. Teche urges that, aside from attempting to secure a Section 307(b) advantage, Phillips may attempt to qualify for dual-city identification (Berwick-Morgan City) in the future; therefore, the applicant reasons, the increased financial investment in the higher powered proposal (allegedly some $34,000 is in actuality an investment in the larger community from which Phillips intends to derive most of its advertising revenue. As a final matter, Teche maintains that it is significant that Phillips could not qualify as a Morgan City station since its proposal would occasion prohibited overlap as defined by Rule 73.-37(a); rather, petitioner reasons, Phillips has taken advantage of a technical exception provided by Rule 73.37(b) (i.e., provision of a first daytime station) even though Phillips allegedly has not relinquished its original and clear intention to become a Morgan City station.

2. In opposition, Phillips asserts that Teche has failed to make the necessary threshold showing required where the population of the communities involved is under 50,000, citing in support *V.W.B., Inc., supra*, and *Durgin Associates, Inc.*, 10 FCC 2d 24, 11 RR 2d 205 (1967). Specifically, Phillips asserts that Berwick and Morgan City do not possess the general characteristics of the city-suburban relationship, since there is no great disparity in population between the two communities, and that it is clear that Berwick has an independent economic, governmental and civic structure. Phillips asserts that Teche has neither shown nor alleged that Phillips' proposed programming is intended to serve the needs of Morgan City rather than Berwick. In response to Teche's engineering allegations, Phillips submits an engineering report which indicates that even at 250 watts its proposed facility would place a signal strength in excess of 5.0 mV/m over Morgan City, and that its proposed directionalized antenna system [4] is necessary to suppress radiation to afford protection to Mexican Station XERT, Reynosa.[5] But, in any event, continues Phillips, its proposed power is permitted by Commission Rules and is the same power permitted for daytime use on local channels and its choice of site was dictated by the fact that it was the only one of its major principal's holdings which was suitable, available, and unaffected by flooding problems.

4. In instances such as this where an applicant's proposal fails to automatically raise a presumption that it would realistically afford primary service to a community other than the one specified, a petitioner must make a strong threshold showing to justify the addition of a Section 307(b) suburban community issue. Two major factors have been repeatedly emphasized by the Commission. *Miracle Valley Broadcasting Company, Inc. (WEIF)*, FCC 73-798, 42 FCC 2d 341 (1973). The first requisite is a tremendous disparity in the comparative sizes of the two communities; the second is a showing of social, political and/or economic dependence upon the larger community by the smaller. Neither factor is present here. Thus, we note that petitioner has not shown that Berwick is dependent upon the larger community of Morgan City in any manner whatsoever. And, absent such a showing, the Board perceives no basis for concluding that Berwick is so small and the disparity between the two cities so great, that Berwick of necessity would be dependent upon the larger community for revenues. Compare *Harry D. Stephenson and Robert E. Stephenson., supra*, and *V.W.B., Inc., supra*. Rather, the 1970 U.S. Census figures place Berwick's population at 4,186 and Morgan City's at 16,586, a ratio of only four to one. As a further matter, although the engineering characteristics of Phillips' proposal would enable the applicant to place a stronger signal over Morgan City than appears to be necessary, we do not believe that this factor, standing alone, is sufficient to justify the addition of an issue. *Cf. V.W.B., Inc., supra*, and *Durgin Associates, Inc., supra*. Rather, the Commission has held that it has never found a one kilowatt proposal to be excessive and that it has consistenty refrained from questioning the proposal of an applicant in this regard so long as all technical standards have been met as has been done here. *Central Carolina Broadcasting Corporation*, 50 FCC 2d 296, 32 RR 2d 379 (1974). Accordingly, the issue will not be added.

ASCERTAINMENT AND MISREPRESENTATION ISSUES

5. Teche asserts that Phillips' ascertainment showing contains numerous inaccuracies and omissions which not only draw its entire showing into doubt, but also raise a substantial question as to whether the applicant has made deliberate misrepresentations to the Commission. As an initial matter, Teche cites allegedly representative errors in Phillips' demographic study of its proposed community.[6] Maintaining that it must be assumed that the entire study is similarly replete with error, Teche avers that it is clear that the Phillips' principals did not attempt to personally examine the proposed community of license as represented by the applicant. As further indication of this, Teche asserts that in preparing its demographic study, Phillips merely "pirated" direct quotations from local (but out-of-date and inaccurate) publications. Second, Teche contends that Phillips' community leader survey is defective in several significant respects: specifically, petitioner asserts that the applicant failed to interview any members of the Police Jury, which is the local governing body in Louisiana; that given the significance of religious interest in the community, Phillips' survey of only one priest and two Baptist ministers is woefully inadequate; and that since nineteen out of forty-eight of the community leaders interviewed are educators, there is some question as to whether Phillips actually interviewed a cross-section of the community. As a related matter, Teche argues that Phillips has misrepresented the nature of its community leader survey, inasmuch as it has inaccurately described certain purported leaders, that two of the interviewees do not recall being interviewed and that one purported interviewee now states that he had refused to be interviewed by Phillips. Finally, Teche alleges that since the individual hired for the purpose of conducting the general public survey was not supervised by a principal or management-level employee of the applicant,[7] this portion of Phillips' ascertainment showing must be disallowed.[8]

6. In opposition, Phillips asserts that Teche's allegations with respect to the adequacy of its demographic study must be rejected since the information contained therein was obtained from a variety of sources customarily deemed reliable by the *Primer*.[9] Moreover, Phillips continues, since the information contained in its study is an accurate reflection of the information it received, there is no basis for the addition of a misrepresentation issue. With respect to its alleged failure to interview members of the Police Jury, Phillips explains that since Berwick is an incorporated area it has its own city government, rather than a police jury which is designed to govern an unincorporated area. In any event, Phillips states, it interviewed other governmental leaders and persons familiar with the parish's problems. In response to Teche's contention that Phillips made

[4] However, Phillips also states that Teche is correct in indicating that "satisfactory coverage of Berwick in accordance with the FCC Rules could be achieved with 250 watts and a nondirectional antenna from either the site proposed or any of a number of other sites. . . ."

[5] As related by Phillips, Morgan City is located east-northeast of Berwick in a diametrically opposite direction to the region in which radiation must be suppressed; as a consequence, its transmitter site must be located in the west, south or southwest of Berwick in the direction of Morgan City so that the major lobe of radiation will be oriented toward Berwick.

[6] For example, petitioner alleges that Phillips erred in describing the extent to which parks, swimming pools and newspapers are available to the community of Berwick.

[7] Teche also suggests that Phillips made an affirmative misrepresentation to the Commission by declaring merely that the general public survey was conducted by a prospective employee of the proposed station.

[8] In support of this contention, Teche submits an affidavit from Mary Duthu stating that she received instructions for conducting the survey from a member of the Morgan City Chamber of Commerce and that she had not met with any representatives of Phillips.

[9] Citing *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 21RR 2d 1507 (1971), question and answer 9.

misrepresentations concerning its community leader survey, the applicant explains that those errors in desecription were the result of inadvertence. Further, Phillips submits the forms used to summarize the interviews with the two leaders who could not clearly recall the conversations in question, and explains that since it had contacted the interviewee who refused to fill out its questionnaire it listed him as having been contacted. Finally, William H. Phillips, president of the applicant, states that he had made arrangements to meet with the person employed to conduct the general public survey, but that due to an emergency, she cancelled the appointment.

7. In the Board's view, Teche's allegations—with one major but limited exception—fail to raise a susbtantial question with respect to the overall adequacy of Phillips' ascertainment showing. First, aside from adverting to a relatively small number of factual errors in Phillips' demographic study, petitioner has advanced no basis for assuming that Phillips' compositional study is incomplete or materially defective in any respect, whatsoever. Similarly, Teche's contentions that Phillips failed to survey a representative cross-section of Berwick must also be rejected as lacking the requisite specificity and support.[10] Thus, petitioner has not alleged that Phillips failed to consult with representatives of any significant group in the community in spite of the fact that the applicant interviewed a relatively large number of educators. And, Teche has not shown that Phillips disregarded the needs and interests of the religious community in any way because only three leaders of this segment of the population were consulted. As a related matter, we do not believe that the statements solicited from three of Phillips' interviewees warrant the addition of a misrepresentation issue; only one of the three statements was so unequivocal that it could be concluded with any degree of certainty that an interviewee was not interviewed as represented. But, in any event, where only a very few interviewees (some three out of seventy-nine) are unable to recall being interviewed, the Board has consistently held that there is insufficient basis for the addition of a misrepresentation issue. *CBS Inc. (WCAU-TV)*, 49 FCC 2d 1214, 32 RR d2 271 (1974). The Board will, however, add a limited *Suburban* issue inquiring into whether Phillips' general public survey was conducted in accordance with the requirements of the *Primer*. In our view, Phillips' own admission that it delegated the supervision of the person employed to conduct the survey to a non-applicant-related person is sufficient to draw the applicant's compliance with Commission requirements in this regard into question. We do not find adequate basis in the pleadings before us for the addition of a misrepresentation issue. However, in the event that during the course of the hearing the Presiding Judge concludes that the variance in statements of Phillips' warrants such an inquiry, the Judge is hereby empowered to take appropriate account of the evidence and its effect upon Phillips' qualifications.

FINANCIAL AND MISREPRESENTATION ISSUES

8. Teche alleges that Phillips' first year costs will be $130,703, rather than $86,730, as proposed by the applicant. Teche computes the higher figure by adjusting the equipment estimate,[11] increasing the estimated engineering costs for proof of performance from $500 to $8,000, and increasing the estimate for legal expenses from $1,000 to $10,000. Thus, Teche asserts that the minimum cost of equipment necessary to construct a 1 kW proposal is $42,803, rather than $38,000 as proposed by Phillips; that the higher estimate for proof of performance testing is based upon general prices in the area; and that the higher legal estimate is based on its estimate of a reasonable fee. As a result of Phillips' miscalculations, Teche concludes, it has available resources of only $110,169 with which to meet first-year costs of $130,703. Teche also alleges that Phillips has made misrepresentations with respect to its financial position. Specifically, petitioner contends, Phillips' application is incomplete since it fails to reflect the fact that the Phillips principals are committed to personally guarantee numerous other loans in connection with other broadcast properties and applications.[12] The failure to mention these other commitments in the instant proceeding may well be significant, Teche suggests, in asmuch as these same individuals are required to personally guarantee a loan commitment of $87,000 for this proposed station.

9. In response to Teche's allegations concerning cost estimates, Phillips asserts that Teche's estimate of equipment costs fails to reflect the 10% discount offered by the equipment supplier; that its engineer has indicated his willingness to defer payment for proof of performance services for a period of two years; and that Teche's estimate of legal expenses likewise must be rejected inasmuch as it lacks the supporting documentation required by Rule 1.229(c).[13] But in any event, Phillips continues, it has obtained an additional loan in the amount of $20,000,[14] which provides it with ample funds to meet any additional costs. Phillips argues that Teche's assertion that it misrepresented its financial status is totally without merit. Thus, Phillips asserts that it has identified its other broadcast interest in the present application; that the other commitments are on file with the Commission in other proceedings and that there is no corresponding requirement to file these other commitments in the instant proceeding; and, significantly, that the lending institution in this proceeding was aware of these other obligations at the time it made the present commitment.

10. The requested issues will be denied. As an initial matter, we are of the view that Teche's allegations that Phillips both miscalculated and misrepresented its first-year costs must be rejected. Not only are petitioner's allegations insufficiently specific in this regard, they are also unsupported by appropriate documentation as required by Rule 1.229(c). Moreover, Phillips has shown that Teche failed to take into account a ten percent discount from the equipment supplier in calculating its estimate, and that payment for proof of performance tests has been deferred for two years. While Phillips' estimate for legal expenses appears to be somewhat low, we nevertheless, are of the view that given the surplus of funds available to the applicant,[15] no cost estimate issue is warranted on this basis. In this regard, we note that petitioner has not drawn the availability of Phillips' bank loan in question. Thus, Teche has not alleged and there is no basis for assuming that the financial institution is unaware of the principals' other contingent liabilities, a necessary basis for the addition of a financial qualifications issue given these circumstances. *Cf. Lamar Life Broadcasting Co.*, 26 FCC 2d 932, 20 RR 2d 981 (1970). Moreover, absent such a showing, we find no basis for adding a misrepresentation or nondisclosure issue, since petitioner has not shown that the unreported information would be of clear decisional significance.

PUBLIC INSPECTION FILE ISSUES

11. Teche requests the addition of Rule 1.65, Rule 1.526 and misrepresentation issues against Phillips based on allegations that the public inspection file was not located at the Berwick City Hall as represented by Phillips in a letter to the Commission dated August 8, 1974. In support of its request, petitioner attaches the affidavits of three individuals who aver that they were told by city hall personnel that the application had been removed sometime in August of 1974. A further affidavit reveals that two affiants

[10] Teche's allegation that Phillips made an affirmative misrepresentation by including secretaries in its community leader listing must be rejected; the applicant clearly and accurately described the occupations of the interviewees in question.

[11] Teche also alleges that there is an inconsistency between Phillips' representations in Section III of its application, since in one portion of the application Phillips sets out the down payment and first-year costs for equipment and in another portion it indicates that it has a credit of $22,669 in deferred equipment payments.

[12] Specifically, Teche alleges various Phillips principals are personal guarantors for some four loans in the total amount of $321,750 to other broadcast applicants and licensees in which the principals are involved.

[13] Citing *WVOC, Inc.*, 32 FCC 2d 765, 23 RR 2d 371 (1971).

[14] The amendment reflecting this additional bank loan was accepted by the Presiding Judge by Order, FCC 75M-582, released March 27, 1975.

[15] An adequate cushion is available to Phillips even when an adjustment is made in its listing of deferred payments (the applicant had erroneously listed this amount as a credit).

went to the office of a local attorney, who informed them in January of 1975 that he was in possession of the application and that he had removed it from the Berwick City Hall, and that he would not allow them to inspect the application until he received prior permission from Phillips. Thus, Teche concludes that Phillips' assertion to the Commission on August 5, 1974, that the file was located at the Berwick City Hall was a deliberate misrepresentation; that the failure to notify the Commission of the relocation of the public file constitutes a change required to be reported by Rule 1.65; and that the denial of access to the file was a violation of Rule 1.526.

12. In opposition, Phillips submits an affidavit of its local counsel, Wayne Bourg, in which he states that he removed the file from the Berwick City Hall to his office on his own initiative, but that upon learning from a Phillips principal that the file should not have been removed, he not only returned it but also contacted the attorney representing the parties he had denied access to, informing them that the file had been returned. Bourg states that his actions were based on a mistaken assumption that the Louisiana practice of permitting removal of property subsequent to publication of legal notice was applicable, and that when he became aware of the Commission rules he immediately took steps to comply with them. Phillips also submits the affidavit of Houston L. Pearce, a Phillips principal, who states, *inter alia*, that he had been unaware that the file had been removed but, upon learning in January 1975 of this occurrence, he immediately directed Bourg to return the file. At no time, argues Phillips, did the applicant deliberately conceal the file or misrepresent to the Commission the file location. Thus, concludes Phillips, while it did technically violate Rule 1.526, its actions do not warrant the addition of an issue.

13. The Review Board will add a Rule 1.526 issue. Initially, we note that there is no basis for finding that Phillips misrepresented the location of its application; Teche has shown nothing to indicate that the application was not on file at the Berwick City Hall at the time of the August 8, 1974 communication to the Commission. Similarly, there is no indication that Phillips was aware of the removal of the application, and knowingly failed to report a change in circumstances to the Commission. However, it is clear that due to a lack of knowledge about Commission requirements on the part of its counsel, the application was unavailable to the public for a considerable length of time. Although there is an absence of any showing of intent to deny access to the application, we find it significant that the application apparently was not available for some five months prior to designation. Accordingly, a comparative Rule 1.526 issue will be added.

DELETION OF DESIGNATED 307(b) ISSUE[18]

14. Teche also requests the deletion of the 307(b) issue designated by the Commission because of the alleged similarity between Bayou Vista and Berwick. Specifically, Teche asserts that the two communities share many services, that they are separated by approximately 1.5 miles of swamp area, that they have closely interrelated interests and problems, and that the differential area to be served by these competing proposals is already served by at least 5 other aural services, factors which, petitioner contends, indicate that the two cities are actually one community.

15. The request to delete will be denied. The Board does not ordinarily delete issues designated by the Commission absent a showing of unusual or compelling circumstances, circumstances which are not alleged here. See *United Telephone Co. of Pennsylvania, Inc.*, 42 FCC 2d 1003, 28 RR 2d 591 (1973); and *Charles W. Holt*, 37 FCC 2d 64, 24 RR 2d 1002 (1972). Rather than alleging that the Commission failed to consider all aspects of the two proposals, Teche appears to argue that the issue should be deleted as a matter of law not fact. However, as the Bureau correctly notes, it may not be assumed that mutual reliance and similarity between two communities necessarily indicates that the communities are not separate and distinct for Section 307 (b) purposes.

16. *Accordingly, it is ordered*, That the petition to enlarge and modify issues, filed January 30, 1975, by Teche Broadcasting Corporation, is granted to the extent indicated herein, and is denied in all other respects; and

17. *It is further ordered*, That the issues in this proceeding are enlarged to include the following issues:

(a) To determine the facts and circumstances surrounding the preparation of the general public survey submitted by Phillips Radio, Inc., and in light of the evidence adduced, whether the applicant has complied with the Commission's *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 21 RR 2d 1507 (1971), in this regard, and

(b) To determine whether Phillips Radio, Inc. has maintained its public inspection file in accordance with Rule 1.526 and, in light of the evidence adduced, the applicant's comparative qualifications to be a Commission licensee.

18. *It is further ordered*, That the burden of proceeding with the introduction of evidence and the burden of proof on issue (a) added herein shall be on Phillips Radio, Inc.

Adopted: October 20, 1975.

Released: October 24, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-29005 Filed 10-28-75;8:45 am]

[18] Section 307(b) of the Communications Act of 1934, as amended, provides for the fair, efficient, and equitable distribution of radio service.

FEDERAL HOME LOAN BANK BOARD

[H. C. #204]

FINANCIAL FEDERATION, INC., AND LASSEN SAVINGS & LOAN ASSOCIATION

Receipt of Application for Permission To Acquire Control of Redwood Empire Savings & Loan Association

OCTOBER 23, 1975.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from Financial Federation, Inc., Los Angeles, California, a holding company, and Lassen Savings and Loan Association, Chico, California, its wholly owned subsidiary, to acquire Redwood Empire Savings and Loan Association, Ukiah, California under the provisions of Section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e), and § 584.4 of the Regulations for Savings and Loan Holding Companies, said acquisition to be effected through Lassen Savings and Loan Association's acquisition of all or substantially all of the issued and outstanding guarantee stock of Redwood Empire Savings and Loan Association, and the subsequent merger of the two associations. Comments on the proposed acquisition should be submitted to the Director, Holding Companies Section, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, on or before November 28, 1975.

[SEAL] J. J. FINN,
Secretary,
Federal Home Loan Bank Board.

[FR Doc.75-29009 Filed 10-28-75;8:45 am]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by Section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	*Owner/Operator and Vessels*
01011---	Aktieselskabet det Ostasiatiske Kompagni: *Cinchona.*
01015---	A/S Rederiet Odfjell: *Bow Sailor, Bow Fortune.*
01017---	Westfal-Larsen & Co. A.S.: *Saga Stream.*
01063---	E. B. Aaby's Rederi A.S.: *Cresco.*
01383---	Rederiaktiebolaget Gustaf Erikson: *Evopearl.*
01861---	BP Tanker Co., Ltd.: *British Reliance.*
01935---	Partnership between Steamship Co. Svendborg Ltd. & Steamship Co. of 1912: *Mc-Kinney Maersk.*
01992---	Nordstrom & Thulin AB: *Skeppsbron.*
02145---	Memphis Boat Refueling Service Inc.: *STC 2003.*
02190---	Bugsier-Reederei-und Bergungs-Aktiengesellschaft: *Atlantic.*

Certificate No.	Owner/Operator and Vessels
02363---	Rederiet Otto Danielsen: *Karen Danielsen.*
02435---	Saint Raphael Shipping Corp.: *Saint Pierre.*
02471---	P. T. Djakarta Lloyd: *Djatisari, Sam Ratulangie, Djatiprana, Djatibaru, Djatimulia, Hadji Agus Salim, Djatianom.*
02862---	Ocean Shipping & Enterprises Ltd.: *Ocean Rentis.*
02911---	Sig. Bergesen Dy. & Co.: *Berge Fister, Berge Commander, Berehus, Berge Adria, Berge Brioni, Berge Duke, Berge Queen, Berge King.*
03047---	E. I. Dupont de Nemours & Co.: *EIDC-67.*
03245---	Rederiaktieselskabet Dannebrog: *Weco Supplier IV.*
03292---	Maritimecor S.A.: *Navelina, Satsuma, Anona, Nectarine, Bering, Antarctic.*
03293---	Maritime Fruit Carriers Co. Ltd.: *Guava.*
03635---	Hines, Inc.: *Hines 422, Hines 424.*
03637---	P. A. Van Es & Co. Bv: *Breeveertien, Breehelle.*
04228---	Campagnie Maritime Belge (Lloyd Royal) S.A.: *Mokaria.*
04276---	Rivtow Straits Ltd.: *Pt No. 2.*
04404---	Lars Rej Johansen: *Joada.*
04411---	The Ulster Steamship Co., Ld.: *Cast Beaver.*
04458---	Naviera Artola S.A.: *Ondiz.*
04462---	Empresa Nacional "Elcano" De La Mariana Mercante S.A.: *Castillo De Lorca.*
04567---	Ken Hieng Navigation (Panama) Corp. S.A.: *Ken Ley.*
05098---	Esso Tankers, Inc.: *Esso Tampa.*
05155---	Bultema Dock & Dredge Co.: *Grand Rapids.*
05192---	Reefer and General Shipping Co. Inc.: *Sifnos.*
05278---	Twin City Barge & Towing Co.: *TCB 68, TCB 313, TCB 306, TCB 310, TCB 311, TCB 312.*
05577---	Far Eastern Shipping Co.: *Kolya Myagotin, Spokoynyi, Sasha Kotov, Pioner Slavyanki, Angarales, Zina Portnova, Lara Mikheenko, Sasha Kondratjev, Valeriy Volkov, Vitya Chalenko, Nina Sagaydak, Komsomolets Turkmenii.*
05773---	Paduca Marine Ways, Inc.: *Gas Free I.*
06073---	Marine Drilling Co.: *J. Storm IV.*
06257---	Montauk Oil Transportation Corp.: Cibro Albany.
06566---	Occidental Petroleum Corp.: *Hooker North Tonawanda, Hooker Grand Island, Hooker Burlington.*
06583---	Eastern Canada Towing Ltd.: *Point Valiant.*
06691---	Hokkaido Prefecture Educational Committee: *Hokuho Maru.*
06808---	Eternity Carriers Inc.: *Nego May.*
07255---	Teh Tung Steamship Co. Ltd.: *Concord.*
07362---	Primorsk Shipping Co.: *Internatsional, Leninskoye Znamya.*
07574---	Georgian Shipping Co.: *Aspindza, Drogobych, General Bagration, Kapitan Makatsaria.*
07643---	Nebula Shipping Ltd.: *Nebula.*
08462---	Whiteline Navigation Co., Ltd.: *Marguerite Venture, Golden Wistaria, Golden Lilac, Camellia Venture.*
08466---	Astyanax Maritime Co., Ltd.: *Astyanax.*
08539---	Pescaboa S.A.: *Xeitosino.*
08790---	Agtek International Inc.: *American Eagle.*
08868---	Weathers Towing, Inc.: *Patrick Calhoun Jr.*
09036---	Commandamentul Flotei De Pescuit Oceanic Navrom-Tulcea: *Mindra.*
09095---	Moreno Shipping Co.: *Olympic Dream.*
09327---	Grand Wisdom Transport, Inc.: *Unibulk Fir.*
09468---	Puerto Rico Maritime Shipping Authority: *Eric K. Holzer, Ponce De Leon.*
09547---	J.A.R. Barge Lines: *J.A.R. 9, J.A.R. 10, J.A.R. 11.*
09611---	Bruce Bay Shipping Co. Ltd.: *Ocean Trader.*
09708---	Zapata Marine Service Ltd. S.A.: *Statesman Service, Dominion Service.*
09770---	Siora Millia Shipping Co. Ltd.: *Panagiotis S.*
09859---	K/S Bewa XIV: *Helga Bewa.*
09894---	Jaime Emilio Nunez: *Jaime.*
10093---	Universal Giant Shipping Co., Ltd. S.A.: *Universal Giant.*
10252---	Taiwan Maritime Transportation Co., Ltd.: *Orient Safety, Orient Welfare, Orient Victory.*
10260---	Hollywood Marine Inc.: *GDM 10, GDM 30, T-200.*
10292---	Pacific Peace Navigation S.A.: *Toyu Maru.*
10360---	Societe Senegalaise D'Armement A La Peche: *Jilor.*
10413---	Ever Honesty Line, S.A.: *Ever Honesty.*
10417---	T. Smith & Son, Inc.: Bob, Mammoth, *Mickey, Patricia, Penny, Sharon, Terence, William, SCB-3.*
10418---	Crescent Towing & Salvage Co., Inc.: *Humrick.*
10433---	Estonian Shipping Co.: *Ivan Belostotskiy.*
10468---	Mission Viking, Inc.: *Mission Viking,* A. W. Martin.
10502---	Silver Bay Barge Co.: *Silver Bay.*
10503---	Aquarius Enterprises Corp.: *Kaliope.*
10509---	Cin-Tow, Inc.: *Jim Murphy.*
10513---	Laurel Shipping Corp.: *Laurel Wreath.*
10525---	Pansegura Armadora S.A.: *Vassiliki Colocotroni*
10529---	Aethra Shipping Co. S.A.: *Costas K.*
10330---	United Car Transport Corp. S.A.: *Global Wing.*
10331---	Rederiet For T/T Sea Symphony: *Sea Symphony.*
10534---	Howard Anderson and James L. Free d.b.a. Sea Transporter Associates: *Sea Transporter.*
10535---	Hornett III Joint Venture: *Hornet III.*
10539---	Zeta Fisser Kg & Co.: *Sunlina.*
10541---	Theta Fisser Kg & Co.; *Erika Fisser.*
10542---	Boca Maritime N.V.: *Boca Tabla.*
10543---	Kommanditgesellschaft Jota Fisser Kg & Co.: *Elisabeth Fisser.*
10545---	Scheepvaartbedrijf Santa Lucia Bv: *Tempo.*
10546---	Rederij Scheepvaartbedrijf M.S. Adriatic: *Adriatic.*
10547---	Rederij M.S. Atlantide: *Atlantide.*
10550---	Partrederiet Bymos: *Bymos.*
10551---	Partrederiet Ice Star: *Ice Star.*
10552---	F. Laeisz Maritime & Trading Co. Ltd.: *Ximena, Florida Silverbow, Florida State.*
10553---	Spetsai Navigation S.A.: *Captain B.*
10554---	Laertis Shipping Co. Ltd.: *Marine T.*
10555---	Algol Shipping Co. Ltd.: *Altanin.*
10556---	CK. Apollo (Liberia) Corp.: *Ck. Apollo.*
10557---	Caspian Marine Corp.: *Caspian Trader.*
10558---	Midas Marine Corp.: *Midas Seine*
10559---	Bardal Shipping Co., S.A.: *Alekos K.*
10560---	Transeast Navigation Ltd.: *Andros Transport.*
10561---	Loong Hwa Shipping Co., S.A.: *Loong Hwa.*
10563---	Libas Shipping Corp.: *Hetland Courier.*
10564---	Praco Navigation Co., Ltd.: *North Sea.*
10565---	Robbins Towing Co.: *Mary L.*
10566---	Alpine Shipping Co.: *Moura.*
10567---	Stephenson Clarke Shipping Ltd.: *Jevington.*
10568---	Falcon Line Ltd.: *Falcon Friendship.*
10569---	Peavey Co.: *Tennessee, Frank H. Peavey.*
10570---	Salamis A/S: *Skauvann.*
10571---	Maraplomo Naviera Oceanica S.A.: *Lady Clio.*
10572---	Filikos Shipping Corp.: *Filikos.*
10573---	Midas Moon Transport Inc.: *Sankomoon.*
10574---	Midas Light Transport Inc.: *Sankolight.*
10575---	Midas Star Transport Inc.: *Sankostar.*
10576---	Midas Inter-Ocean Corp.: *Midas Apollo.*
10577---	Tokai Shipping Co., Ltd.: *Tokyo Rainbow, Japan Rainbow, California Rainbow.*
10578---	Panamian Anchorport Co., Inc.: *F.S.B.-02.*
10579---	Miekyo Kaiun Co., Ltd.: *Meisei Maru.*
10580---	Thai Hwa Navigation Corp. S.A.: *Hongkong Truth.*
10581---	Parnassos Shipping Co. S.A.: *Noni.*
20582---	Hendrik Shipping Corp.: *Hendrik.*
10583---	Madison Shipping Corp.: *Sunvreeland, Sunfrancis.*
10584---	Mobil Tankships (U.K.) Ltd.: *Mobil Pinnacle Satucket.*
10586---	Compagnie Maritime Francaise Internavis: *Internavis I.*
10587---	Quest Navigation Corp.: *Valentina.*
10588---	Shrine Navigation Co. Ltd. S.A.: *EDO.*
10589---	La Palma Navegacion S.A.: *Rio Colorado.*
10592---	Interessentskapet Essi Camilla: *Essi Camilla.*
10593---	Lotus Shipholding Corp.: *Lotus.*
10594---	Ms Astor Reederei & Schiffahrts G.m.b.H. & Co. KG.: *Astir.*
10595---	Coralstone Shipping Corp. *Puerto Madryn.*
10597---	Mighty Shipping Co.: *Captain Cook.*
10598---	International Ship Finance (Liberia) Co., Inc.: *Capella.*
10599---	Navajo Shipping Corp., Inc.: *Perseus.*
10602---	Riverfront Petroleum Corp.: *Sunshine Leader.*
10605---	Bisso Towboat Co., Inc.: *Big Bill No. 2.*
10607---	Souda Compania Naviera S.A.: *Aegis Lyric.*
10610---	Lajas Shipping Inc.: *Sankosteel, Sankograin.*

Certificate No.	Owner/Operator and Vessels
10612	Coral Maritime Ltd.: *Coral.*
10613	Regal Shipping Inc.: *Sankoqueen.*
10616	Arab Maritime Petroleum Transport Co.: *Bubiyan.*
10617	Valmar Navigation Co., Ltd.: *Gisella.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-29035 Filed 10-28-75;8:45 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below indicated vessels, pursuant to part 542 of Title 46 CFR and Section 311(p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	Owner/Operator and Vessels
01017	Westfal-Larsen & Co. A/S: *Grenanger, Austanger.*
01150	Chevron Transport Corp.: *E. J. McClanahan.*
01232	Rolf Wigands Rederi A/S: *Voywi.*
01428	Ocean Transport & Trading Ltd.: *Alcinous.*
01506	Maritima Mexicana S.A.: *Saltillo.*
01606	Oil Transport Co., Inc.: *LRL 112.*
01628	Union Shipping Co., Ltd.: *Southern Union.*
01790	Rex Shipping Corp.: *Alexander Voyazides.*
01849	Victoria Steampship Co., Ltd.: *Victoria.*
01871	F. Scinicariello: *St. Peter.*
01982	Ab Svenska Ostasiatiska Kompaniet: *Japan.*
02022	C. T. Gogstad & Co.: *Lama.*
02145	Memphis Boat Refueling Service, Inc.: *Pittsburgh Supplier.*
02151	Anchor Line Ltd.: *Star Assyria.*
02166	Jan-Erik Dyvi Skipsrederi: *Dyvi Adriatic.*
02266	Marina Mercante Nicaraguense S.A.: *Leon.*
02287	International Union Lines Ltd.: *Union Venus.*
02303	Interessentskapet Seahorse: *Concordia Seahorse.*
02363	Rederiet Otto Danielsen: *Gudrun Danielsen.*
02551	Ellerman Lines Ltd.: *City of Canterbury.*
02601	Caraibische Scheepvaart Maatschappij N.V.: *Copan.*
02858	Intermarine, Inc.: *Bonanza.*
02889	Showa Kajun K.K.: *Showa Maru.*
03023	Primrose Shipping Co. S.A.: *Olympic Valour.*
03041	Palmas Transportation Co.: *Tina Onassis.*
03058	Amoco Oil Co.: *Amoco I.*
03273	Dunlap Towing Co.: *ZB 180, ZB 28.*
03292	Martimecor S.A.: *Greenland.*
03349	Pacific Breeze Navigation Co. S.A.: *Isabel.*
03389	Shell Tankers, B.V.: *Camitia.*
03400	Nicolas J. Vardinoyannis: *Georgios V.*
03478	Nippin Shoun K.K.: *Tohnan-maru No. 10.*
03501	Osaka Shosen Mitsui Senpaku K.K.: *Recife Maru.*
03623	Smith-Rice Derrick Barges, Inc.: *Barge 20, Barge 5, Scow 3, Barge 7, Barge 16, Barge 17, Barge 19, Barge 25.*
03692	Marmac Corp.: *East Peco.*
03847	American Stern Trawlers, Inc.: Seafreeze Atlantic, Seafreeze Pacific.
03923	Shinwa Kaiun Kaisha, Ltd.: *Hozan Maru.*
04218	Zidell, Inc., Zidell Dismantling, Inc. and Zidell Explorations, Inc.: ZB 205, Peter W.
04226	National Marine Service Inc.: *LTC 19, BI 127, BI 119, BI 126.*
04593	Bow Shipping Corp.: *Golar Arrow, Golar Bow.*
05092	Esso Belgium S.A.: *Esso Liege.*
05115	N.V. Maatschappij Motorship Barendrecht: *Barendrecht.*
05171	Poros Shipping Corp.: *Marna.*
05154	Duquesne Sand Co.: *Admiral.*
05295	Sameieselskapet Polar Reeier Brandal Aalesund, Norway: *Polar Reefer.*
05406	Coronet Shipping Ltd.: *Nenya.*
05470	Charter Transport Line, Inc.: *Winoc.*
05805	Partenreederei MS Brunshoeft: *Brunshoeft.*
05857	Coral Marine Enterprise Panama Co. S.A.: *Coral White.*
05890	Enterprise Shipping Co. Ltd.: *Friendship.*
05937	Pomona Company, Inc.: *Marion.*
06135	Glynafon Shipping Co. LTD.: *Glyntawe.*
06254	Andromeda Shipping Co., S.A.: *Spectra J.*
06596	Issei Kisen KK.: *Kaisei Maru.*
06775	Whitco (Marine Services) Ltd.: *Liverpool Clipper, Bristol Clipper.*
06808	Eternity Carriers Inc.: *Nego Venture.*
06818	Globus Reederei G.m.b.h., Hamburg: *S.A. Walvis Bay.*
07017	Coquet Shipping Co. Ltd.: *Hong Kong Truth.*
07393	Hellenic Maritime Enterprises Inc.: *Arcadia.*
07414	Rederij Atlantide: *Atlantide.*
07445	Arini Compania Naviera S.A.: *Lindaki.*
07448	Hamburger Fleet Shipping Co., Inc. Monrovia: *Hamburger Fleet.*
07545	Compania Topacio Navegacion S.A.: *Nagata.*
07550	Erato Shipping Inc.: *Regent Vanda.*
07620	Everbeauty Line, S.A.: *Ever Beauty.*
07788	Rome Transfer Corp.: *Syracuse Sears.*
08091	Partrederiet Bravo II: *Anne Bravo.*
08303	Marico Shipping Ltd.: *Idan, Yani.*
08344	Hammerton Shipping Co. S.A.: *Lloyd New York.*
08381	Ef-Marine, S.A.: *Freights Queen.*
08390	The Interlake Steamship Co.: *Charles M. Schwab, Robert Hobson.*
08530	Prompt Shipping Corp., Ltd.: *Mediterranean Darby.*
08577	Heiner Braasch Schiffahrtsges. Hamburger Flagge KG.: *Hamburger Flagge.*
08586	Tabard Shipping Co.: *Southern Sunlight.*
08587	Dryad Shipping Co.: *Southern Merchant.*
08611	Evangelo Maritime Co., Ltd.: *Manolis M.*
08801	Nordestal Maritima S.A.: *Carole, Donald.*
08815	George K. Compania Naviera S.A. Panama: *Bessy K.*
08833	General Metals of Tacoma, Inc.: *Benner.*
08953	Transpolaire Limitee: *Kakawi.*
09117	Alianza Delmar Armadoro SA.: *Kyra Christina.*
09224	Greenville Towing Co., Inc.: *Linda.*
09452	Sea Spirit Navigation Co. Ltd: *Captain Theo.*
09470	Carrick Corp. Ltd.: *Tara Hall.*
09475	Wayne, Inc.: *Avalon.*
09521	Expomar S.A.C.I.F.A.N.: *Meri Primero.*
09554	Kef Management Co. S.A. Panama: *Kef Eagle.*
09584	Dong Sung Marine Transport Co., Ltd.: *Dong Moon, Dong Moon No. 3.*
09620	Atlantic Coast Chemical Co.: *Marmot.*
09653	The Oceanic Freighters Corp. Monrovia: *Sauda.*
09748	Spetses Shipping Corp.: *Lloyd Philadelphia.*
09859	K/S Bewa XIV: *Helga Bewa.*
09922	Marianne Tankers, Inc.: *Marianne Conway.*
10055	Amy Shipping Company S.A. Panama: *Amy.*
10106	Collegetown Marine Towing Inc.: *Michael J.*
10376	Rks Bulk Tramp: *Viggo Scan.*
10481	Tracey Navigation Co., Ltd.: *Chalkis.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-29034 Filed 10-28-75;8:45 am]

[Independent Ocean Freight Forwarder License No. 1585]

SEALIFT PACIFIC

Order of Revocation

On October 8, 1975, the Federal Maritime Commission received notification that Sealift Pacific, P.O. Box 254, Moraga, California 94556 wishes to voluntarily surrender its Independent Ocean Freight Forwarder License No. 1585 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders Commission Order No. 201.1 (Revised) § 5.01(b) (dated June 30, 1975);

It is ordered, That Independent Ocean Freight Forwarder License No. 1585 of Sealift Pacific be returned to the Commission for cancellation.

It is further ordered, That Independent Ocean Freight Forwarder License No. 1585 be and is hereby revoked effective October 8, 1975, without prejudice to reapply for a license at a later date.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Sealift Pacific.

LEROY F. FULLER,
Director, Bureau of Certification & Licensing.

[FR Doc.75-29032 Filed 10-28-75;8:45 am]

[Independent Ocean Freight Forwarder License No. 661]

TIDEWATER FORWARDING COMPANY, INC.

Order of Revocation

On October 1, 1975, the Federal Maritime Commission received notification that Tidewater Forwarding Company, Inc., 350 Broadway, New York, New York 10013 wishes to voluntarily surrender its Independent Ocean Freight Forwarder License No. 661 for revocation effective October 3, 1975.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised) Section 5.01 (b) (dated June 30, 1975):

It is ordered, That Independent Ocean Freight Forwarder License No. 661 of Tidewater Forwarding Company, Inc. be returned to the Commission for cancellation.

It is further ordered, That Independent Ocean Freight Forwarder License No. 661 be and is hereby revoked effective October 3, 1975, without prejudice to reapply for a license at a later date.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Tidewater Forwarding Company, Inc.

LEROY F. FULLER,
Director, Bureau of Certification & Licensing.

[FR Doc.75-29033 Filed 10-28-75;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RP76-16]

NATIONAL FUEL GAS SUPPLY CORP.

Proposed PGA Rate Adjustment

OCTOBER 22, 1975.

Take notice that on September 29, 1975 National Fuel Gas Supply Corporation (National) tendered for filing as part of its FPC Gas Tariff, Original Volume No. 1, Second Substitute Fifth Revised Sheet No. 4, proposed to be effective October 1, 1975.

National states that the sole purpose of this revised tariff sheet is to adjust National's rates pursuant to the PGA provisions in Section 17 of the General Terms and Conditions. National further states that such tariff sheet reflects an adjustment in National's rates of .83¢ per MCF on Second Substitute Fifth Revised Sheet No. 4.

It is stated that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., 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 and 1.10). All such petitions or protests should be filed on or before October 30, 1975. 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 filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29068 Filed 10-28-75;8:45 am]

FEDERAL RESERVE SYSTEM

COMMERCIAL BANKSHARES, INC.

Order Approving Formation of Bank Holding Company

Commercial Bankshares, Inc., Grand Island, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 88.9 per cent or more of the voting shares of Commercial National Bank & Trust Company, Grand Island, Nebraska ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a corporation organized under the laws of the State of Nebraska for the purpose of becoming a bank holding company through the acquisition of Bank. In the relevant banking market (approximated by Hall County, Nebraska), Bank (deposits of $47.8 million)[1] is the second largest of seven commercial banks and controls approximately 24.1 percent of the total deposits held by commercial banks in that market.[2] Through eight other one-bank holding companies, certain principals of Applicant also have interests in six banks in Colorado and two banks in Nebraska. However, none of the other banks in which principals of Applicant are involved compete with Bank to any significant extent. Furthermore, inasmuch as the present proposal involves a transfer of the ownership of Bank from individuals to a corporation controlled essentially by those same individuals, and Applicant has no present banking subsidiaries, it appears that the acquisition of Bank by Applicant would not have any significantly adverse effect upon either existing or potential competition within the relevant market. Accordingly, on the basis of record, the Board concludes that competitive considerations are consistent with approval of the application.

[1] All banking data are as of December 31, 1974, unless otherwise indicated.

[2] Of these seven banks, four (including the market's three largest) are located in the city of Grand Island, Nebraska.

Under the Bank Holding Company Act, the Board is required to consider the financial and managerial resources and future prospects of the bank holding company involved and the bank to be acquired. In the exercise of that responsibility, the Board has previously indicated its concern about the utilization of significant acquisition debt and the effect that such debt may have on the overall financial prospects of the holding company and the bank involved. In acting on one-bank holding company formations, the Board has been somewhat liberal in the financial standards that it has applied in cases where the current or prospective owner-chief executive is establishing a one-bank holding company to hold the direct equity interest in his bank. The Board regards such policy as being in the public interest in order to facilitate management succession on the community level at the nation's many smaller, independent banks.[3]

However, the Board does not believe as a general matter that such liberality should pertain to situations where individuals are involved in more than one one-bank holding company, such as where individuals are engaged in establishing a series or chain of one-bank holding companies. In such situations, the Board believes it more appropriate to analyze such organizations under the more restrictive financial standards that are normally used in analyzing multi-bank holding companies. Such analysis appears appropriate in such circumstances because of the financial interdependence regularly exhibited by a chain of commonly owned one-bank holding companies and the distinct possibility that the resources of one or more banks in the chain may be used to support the operations of other members of the banking group.

Even applying the more restrictive financial standards normally used in analyzing multi-bank holding companies, the Board finds that financial considerations relating to the present proposal are consistent with approval of the application.

Although Applicant will incur acquisition debt in connection with this proposal, it appears that Applicant will be able to service this debt over a twelve-year period without impairing the financial condition of Bank during that period. In addition, Applicant's principals have demonstrated their ability to service the debt of the eight other one-bank holding companies under their control without impairing the capital of those companies' respective subsidiary banks. In general, it appears that the overall financial condition of Applicant and of the other one-bank holding companies in which principals of Applicant are involved is satisfactory and consistent with

[3] See Board's Order dated January 15, 1974, denying the application for Board approval of the formation of a bank holding company filed under section 3 of the Act by BHCo., Inc., Hardin, Montana [60 *Federal Reserve Bulletin* 123 (1974), 39 FEDERAL REGISTER 2643 (1974)].

approval of the application. With respect to convenience and needs considerations, it appears that there have been numerous improvements in Bank's operations, such as increasing banking hours, new and expanded services, and increased community involvement since the time that Applicant's principals acquired control of Bank. Such considerations relating to the convenience and needs of the community to be served are consistent with approval of the application.

Accordingly, on the basis of the above in addition to other facts of record, the Board concludes that considerations relating to the financial condition, resources, and prospects of Applicant are consistent with approval of the application. The Board also regards managerial considerations and benefits that would result in the convenience and needs of the community to be served as being consistent with approval of the application. It is the Board's judgment that consummation of the holding company formation would be in the public interest and that the application to acquire Bank should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order, or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[4] effective October 17, 1975.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.75-28921 Filed 10-28-75;8:45 am]

TEXAS AMERICAN BANCSHARES INC.

Acquisition of Bank

Texas American Bancshares Inc., Fort Worth, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire through exercise of a rights offering 3811 voting shares of Bank of Fort Worth, Fort Worth, Texas; 3749 shares to be acquired directly, and 62 shares indirectly through Texas American Bancshares Inc.'s wholly owned subsidiary, The Fort Worth National Bank, Fort Worth, Texas. The latter shares (62) represent ownership held in a fiduciary capacity by The Fort Worth National Bank. The acquisition pursuant to the rights offering would result in no increase in the percentage of voting shares of Bank of Fort Worth presently owned by Texas American Bancshares Inc. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 12, 1975.

Board of Governors of the Federal Reserve System, October 17, 1975.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.75-28922 Filed 10-28-75;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Recommendations A-15, A-16, A-17, A-19 and A-20]

COMMISSION ON GOVERNMENT PROCUREMENT

Executive Branch Position

Notice is given that the executive branch has accepted Commission on Government Procurement (COGP) Recommendations A-15, A-16, A-17, A-19 and A-20, with modifications.

The COGP recommendations and modifications are as follows:

COGP Recommendations A-15: Assign to the Office of Federal Procurement Policy responsibility for:

a. Developing and monitoring, in cooperation with the procuring agencies and the Civil Service Commission, personnel management programs that will assure a competent work force.

b. Defining agency responsibilities and establishing standards for effective work force management and for development of a Government-wide personnel improvement program.

c. Developing and monitoring a uniform data information system for procurement personnel.

Modification: Assign to the Federal Procurement Institute responsibility to:

a. Recommend and monitor, in cooperation with the Civil Service Commission and the procuring agencies, the development, implementation, and exchange of personnel management ideas to enhance the procurement field.

b. Monitor the manpower data relating to procurement personnel, using this data as needed in accomplishing the above.

COGP Recommendation A-16: Establish a recruiting and trainee program to assure development of candidates for procurement positions in all agencies, at all levels, and in all required disciplines. Special attention should be given to college recruitment to obtain young workers capable of being trained through experience and additional formal education to provide the managerial staff required a decade from now.

Modification: Assist the agencies in fulfilling their responsibility for determining quantitative and qualitative manpower requirements so that appropriate recruiting programs, training and development programs, and other personnel management activities can be developed and carried out effectively to meet agency needs.

COBP Recommendation A-17: Establish a better balance between employee tenure and promotion rights and long-range needs of the agencies.

Modification: Assist the agencies in designing and implementing plans to provide guidance and opportunity for employees to develop and advance in accordance with their capabilities and interests, when considering long-range needs of the agencies.

COGP Recommendation A-19: Establish a rotation program to provide selected future procurement personnel with a variety of related job experiences and individual assignments throughout the Government and in various locations.

Modification: Assist the agencies in fulfilling their general and continuing responsibility for executive development. Employees with executive potential in positions below the top career levels must be identified, trained, and developed to increase their capacity to perform the complex functions of procurement management. Rotation of personnel is recognized as a valuable and integral part of executive development and will be used as part of the program.

COGP Recommendation A-20: Structure career development, promotion, and reduction-in-force programs to reflect a longer-range viewpoint of what is best for the overall needs of the agency and of the Government.

Modification: Assist the agencies in designing and implementing plans to strengthen personnel management programs to reflect a long range viewpoint for staffing, training, development, utilization, and retrenchment, as may be necessary to achieve program and manpower goals and requirements in an equitable, efficient, and economical manner and in accordance with public law and policy.

These recommendations, as modified, conform to Public Law 93-400 which established the Office of Federal Procurement Policy. Notice is further given that these recommendations will be assigned to the Federal Procurement Institute (FPI) for development and implementation in cooperation with the Civil Service Commission and the procuring agencies. (See Federal Register Volume No. 131—Tuesday, July 8, 1975, page 28677, for notice of the executive branch acceptance of COGP recommendation A-21 on the establishment of the FPI).

These recommendations are considered an integral part of the FPI's mission to provide leadership in the development and maintenance of an effective Federal procurement work force. The FPI is scheduled to be formally created and organized by the end of 1976, and its work activities initiated in January 1977. The effort of developing and maintaining an effective Federal procurement work force is viewed as continuous in nature, requiring on-going evaluation and appropriate program innovations, changes, or modifications to maintain the effective-

[4] Voting for this action: Chairman Burns and Governors Bucher, Holland, and Jackson. Voting against this action: Governor Mitchell. Absent and not voting: Governors Wallich and Coldwell.

ness and efficiency necessary to accomplish agency missions and goals.

This notice is being published by direction of the Administrator for Federal Procurement Policy, Office of Management and Budget.

Dated at Washington, D.C. on October 22, 1975.

JOHN L. LORDAN,
Acting Associate Administrator.

[FR Doc.75-29021 Filed 10-28-75;8:45 am]

NATIONAL ARCHIVES ADVISORY COUNCIL

Notice of Meeting

Notice is hereby given that the National Archives Advisory Council will meet at the times and places indicated. Any interested persons may attend. For any additional information, call or write the person shown below.

NATIONAL ARCHIVES ADVISORY COUNCIL

Meeting dates: November 20-21, 1975.

Times: November 20: 9 a.m.-5 p.m., November 21: 9 a.m.-3 p.m.

Place: Lyndon B. Johnson Library, 2313 Red River Street, Austin, TX 78705.

Agenda: NARS Bicentennial activities, machine-readable archives, satellite archives and university-Presidential library relations.

For further information contact: Mr. Albert Meisel, Assistant Archivist for Educational Programs, General Services Administration (NE), Washington, D.C. 20408. 202-963-6404.

Issued in Washington, D.C. on October 16, 1975.

JAMES B. RHOADS,
Archivist of the United States.

[FR Doc.75-29022 Filed 10-28-75;8:45 a.m.]

INTERNATIONAL TRADE COMMISSION

BIRCH-DOOR-SKIN INDUSTRY

Eligibility for Higher Tariffs, Quotas, Adjustment Assistance

OCTOBER 20, 1975.

In its first decision under the new import relief provisions of the Trade Act of 1974, the United States International Trade Commission today turned down the pleas of U.S. producers for protection against imports of birch plywood door skins.

Five of six Commissioners reported to the President that the birch-faced plywood, which is used for making doors, is not coming into the country in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing similar articles.

The case is significant because it is the first to test the new criteria of the law President Ford signed earlier this year to give the U.S. Government new authority to negotiate trade agreements and to give U.S. industry at least temporary relief from increased imports. It was expected that U.S. industries which considered themselves hurt by imports would have a much easier time under the new act than under the previous law in getting Government help through higher tariffs, quotas, tax breaks, or loans for the industries and member firms, and unemployment compensation, relocation allowances, or training for their workers.

Nine other import relief cases are presently awaiting decision by the Commission, and other domestic industries are reported to be considering filing petitions for relief. Today's result at least means that a complaint filed with the U.S. International Trade Commission does not automatically entitle the complaining party to eligibility for relief from imports.

The Commission was quick to point out that today's decision meant only that the particular facts in this case did not satisfy the statutory conditions necessary for an affirmative decision.

Four Commissioners—George M. Moore, Catherine Bedell, Joseph O. Parker, and Italo H. Ablondi—based their determination on the fact that the downturn in new housing starts, more than increased imports, caused the problems of the domestic industry producing birch door skins.

The fifth member of the majority, Commissioner Will E. Leonard, did not find any increase in imports of birch plywood doors skins. Daniel Minchew, the only Commissioner reporting to the President that the domestic industry producing birch door skins was eligible for import relief, did find that imports had increased relative to domestic production, that the industry was seriously injured, and that the imports were a substantial cause of that serious injury.

Imports of birch plywood door skins decreased irregularly from 153 million square feet (valued at $11.7 million) in 1970 to 87 million square feet ($13.0 million) in 1974. Such imports totaled 59 million square feet ($6.7 million) in the first 6 months of 1975, compared with 48 million square feet ($7.7 million) in the corresponding period of 1974. U.S. shipments, on the other hand, increased from 18.1 million square feet (valued at $2.1 million) in 1970 to 26.0 million square feet ($4.5 million) in 1974. Such shipments amounted to 2.6 million square feet ($0.5 million) for the first 6 months of 1975, compared with 18.2 million square feet ($3.1 million) for the corresponding period of 1974.

Copies of the Commission's report (USITC Publication 743) containing the decision, the views of the various Commissioners, and nonconfidential information developed in the course of the 6-month investigation may be obtained, upon request, from the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436 (202-523-0161).

By Direction of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.75-28998 Filed 10-28-75;8:45 am]

[AA1921-149]

CERTAIN NON-POWERED HAND TOOLS FROM JAPAN

Amendment of Notice of Investigation

Having received advice from the Department of the Treasury on October 16, 1975, that it is inappropriate to include battery post and terminal cleaning brushes, battery terminal spreaders, angle-nose pliers, booster cables and battery service kits (terminal puller, cleaning brush and two terminals) within the investigation of certain non-powered hand tools from Japan, that are being, or are likely to be, sold at less than fair value, the United States International Trade Commission on October 23, 1975, amended investigation No. AA1921-149 instituted on September 10, 1975 (40 FR 42607), under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to include only "punches, chisels, hammers and sledges (with or without handles), vises, c-clamps and battery terminal lifters."

By order of the Commission.

Issued: October 23, 1975.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.75-28997 Filed 10-28-75;8:45 am]

[332-77]

CONDITIONS OF COMPETITION BETWEEN DOMESTIC AND IMPORTED SHRIMP

Place and Time of Public Hearing

Notice is hereby given that a public hearing to be held in connection with United States International Trade Commission investigation no. 332-77, Conditions of Competition Between Domestic and Imported Shrimp, will be held in New Orleans, Louisiana, at 10 a.m., CST, on November 11, 1975, at the Board Room, International Trade Mart, 2 Canal Street. Requests for appearances at the hearing should be received by the Secretary of the Commission at his office in Washington, D.C., no later than noon of the fifth calendar day preceding the hearing.

Notice of Investigation and Hearings was published in the FEDERAL REGISTER on Tuesday, September 9, 1975 (40 FR 41856).

By order of the Commission.

Issued: October 23, 1975.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.75-29057 Filed 10-28-75;8:45 am]

LEGAL SERVICES CORPORATION

COMMITTEES ON APPROPRIATIONS AND AUDIT AND BY-LAWS AND REGULATIONS

Meetings

The next meetings of the Board of Directors of the Legal Service Corporation and its Committees on Appro-

priations and Audit, and By-laws and Regulations will be held on Thursday, November 6 and Friday, November 7, 1975 in the Cloyd Heck Marvin Center of George Washington University. The Marvin Center is located at 800 21st Street NW., Washington, D.C.

The meeting of the Committee on Appropriations and Audit will begin at 9:30 a.m. on Thursday, November 6, 1975 in room 406 of the Marvin Center and will be for the purpose of discussing the allocation of the FY 1976 appropriation, considering a supplemental request for FY 1976, and refining the FY 1977 budget request.

The Committee on By-laws and Regulations will meet at 9:00 a.m. on Thursday, November 6, 1975 in room 405 of the Marvin Center for the purpose of considering proposed Freedom of Information Act regulations which were printed in the FEDERAL REGISTER on September 12, 1975 (40 F.R. 42374–77), discussing proposed State Advisory Council regulations and a schedule for issuing future regulations.

The Board of Directors will meet at 12:15 p.m. on Thursday, November 6, 1975 and at 9:00 a.m. on Friday, November 7, 1975 in room 405 of the Marvin Center. On Thursday, the Board will adjourn for lunch shortly after convening. They will reconvene at 2:00 p.m. The Board will consider reports from the Committee on Appropriations and Audit, the Committee on By-laws and Regulations, and the Committee on Presidential Search, and recommendations with respect to alternative delivery systems, support center activities, and personnel matters.

Dated: October 24, 1975.

ROGER C. CRAMTON,
Chairman.

[FR Doc.75-29220 Filed 10-28-75;8:45 am]

MARINE MAMMAL COMMISSION

MARINE MAMMAL COMMISSION AND COMMITTEE OF SCIENTIFIC ADVISORS ON MARINE MAMMALS

Notice of Meetings

Pursuant to the notice published in the FEDERAL REGISTER on October 16, 1975, further notice is hereby given that the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals will meet on November 13, 14 and 15, 1975 at the Holiday Inn, 239 West Fourth Avenue, Anchorage, Alaska.

The Commission and Committee will meet together from 11:00 a.m. to 6:00 p.m. on November 13, from 9:00 a.m. to 3:30 p.m. on November 14, and from 9:00 a.m. to 2:30 p.m. on November 15 to discuss and consider the status of activities and problems affecting marine mammals including matters relating to:

(1) Taking of porpoises incidental to commercial yellowfin tuna fishing;

(2) The review of permit applications to take marine mammals for research purposes and/or public display;

(3) International efforts affecting the protection and conservation of marine mammals including and discussion of activities appropriate for cooperative understanding with Canada, Mexico, and the U.S.S.R.;

(4) Applications for waivers of the moratorium including those of the State of Alaska;

(5) Protection of marine mammal populations on San Miguel Island, and other areas; and

(6) The results of several ongoing research projects supported by the Commission.

These sessions of the meeting will be open to the public, and seating will be available to accommodate interested participants and observers. In order to learn as much as possible from people in Alaska who are concerned with and affected by marine mammal protection and conservation efforts, interested persons are invited to present information and comments during the afternoon session on November 13 and the morning session on November 14.

The remainder of the meeting will consist of executive sessions of the Commission and Committee. These sessions will be devoted to the review of memoranda, and exchange of opinions and deliberations concerning internal operations, budget, personnel, policy, interagency liaison, and the evaluation of proposals to conduct resarech related to marine mammal protection and conservation. Participants will be candidly discussing and appraising the professional qualifications and competence of the proposers, their potential contribution to the research program, and information given to the Commission and Committee in confidence.

Executive sessions will be held as follows: November 13, from 9 a.m. to 10:30 a.m.; November 14, from 4 p.m. to 5:00 p.m.; and November 15, from 3 p.m. to 6:00 p.m. These sessions are concerned with matters listed in 5 U.S.C. 552(b)(2), (3), (4), (5) and (6), and therefore, will not be open to the public.

JOHN R. TWISS, Jr.,
Executive Director,
Marine Mammal Commission.

OCTOBER 23, 1975.

[FR Doc.75-28991 Filed 10-28-75;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR ANTHROPOLOGY

Notice of Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Anthropology. Date: November 14–15, 1975. Time: 9 a.m. each day. Place: Rm. 643, National Science Foundation, 1800 G Street, NW., Washington, D.C. Type of meeting: Part Open—Open 11/14 (2 p.m.–5 p.m.) Closed 11/14 (9 a.m.–12:30 p.m.); and 11/15 (9 a.m.–5 p.m.).

Contact person: Dr. Nancie L. Gonzalez, Program Director for Anthropology, National Science Foundation, Rm. 206, Washington, D.C. 20550, telephone (202) 632–4208.

Summary minutes: (open portion) May be obtained from the Committee Management Coordination Staff, Management Analysis Office, National Science Foundation, Rm. 248, Washington, D.C. 20550.

Purpose of advisory panel: To provide advice and recommendations concerning support for research in Anthropology.

Agenda: Topics will include:

NOVEMBER 14—(9:00 a.m. TO 12:30 p.m.—CLOSED)

Review and evaluate research proposals that have been assigned to the Anthropology Program.

2:00 P.M. TO 5:00 P.M.—OPEN

1. Discussion of long-range plans; a. Longtitudinal Studies of Sociocultural Phenomena, b. Origins of Man, c. Archeological Data Bank and Retrieval System, d. Energy-Related Research in Anthropology, e. Research in Applications of Anthropology, f. Mathematics in Anthropology.

2. Perceptions of role of NSF in anthropological research, past, present and future.

3. Identification and evaluation of significant changes in emphasis, new directions, recent advances in: a. Archeology, b. Physical Anthropology, c. Sociocultural Anthropology.

NOVEMBER 15 (9:00 A.M. TO 5:00 P.M.—CLOSED)

Continuation of the review and evaluation of research proposals.

Reason for closing: The proposals being reviewed contain information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within the exemptions of 5 U.S.C. 552(b), (4), (5), and (6).

Authority to close meeting: The determination made on February 21, 1975, by the Director of the National Science Foundation pursuant to provisions of Section 10(d) of Pub. L. 92–463.

M. R. WINKLER,
Acting Committee
Management Officer.

OCTOBER 23, 1975.

[FR Doc.75-29056 Filed 10-28-75;8:45 am]

ADVISORY PANEL FOR EARTH SCIENCES

Notice of Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92–463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Earth Sciences. Date: November 14–15, 1975. Time: 9 a.m. each day. Place: Rms. 511 and 517, National Science Foundation, 1800 G Street, NW., Washington, D.C. Type of meeting: Closed.

Contact person: Dr. William E. Benson, Chief Scientist, Division of Earth Sciences,

National Science Foundation, Washington, D.C. 20550, telephone 202–632–4210.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for research in Earth Sciences.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within the exemptions of 5 U.S.C. 552(b), (4), (5), and (6).

Authority to close meeting: The determination made on February 21, 1975, by the Director of the National Science Foundation pursuant to provisions of Section 10(d) of Pub. L. 92–463.

GAIL A. MCHENRY,
Acting Committee Management Officer.

OCTOBER 22, 1975.

[FR Doc.75–29055 Filed 10–28–75;8:45 am]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON THE PALO VERDE NUCLEAR PLANT, UNITS 1, 2, AND 3

Cancellation

The meeting of the Advisory Committee on Reactor Safeguards Subcommittee on the Palo Verde Nuclear Plant, Units 1, 2, and 3 scheduled for November 5, 1975 has been cancelled. Notice was published at 40 FR 49156, October 21, 1975. It has been determined that this meeting is not necessary as the project is to go to the full Committee at its November 6–8, 1975 meeting.

Dated: October 22, 1975.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.75–28946 Filed 10–28–75;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON THE FLOATING NUCLEAR PLANT

Additional Information

In the notice of the October 29–30, 1975 meeting of the ACRS Subcommittee on the Floating Nuclear Plant, Jacksonville, FL published at 40 FR 48190, October 14, 1975 it was stated that background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the Jacksonville Public Library, and that a copy of the transcript of the open portion of the meeting will be available for inspection on or after November 6, 1975 at the Jacksonville Public Library. In addition to the above, the New Orleans Public Library, 219 Loyola Avenue, New Orleans, LA and the Stockton State College Library, Pomona, NJ 08240 also have this information available and will receive copies of the transcript of the open portion of the meeting.

Dated: October 22, 1975.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.75–28947 Filed 10–28–75;8:45 am]

[License No. 48–16514–02E]

CITY TOOL AND MANUFACTURING CO., INC.

Issuance of Byproduct Material License

Please take notice that the Nuclear Regulatory Commission (NRC) has, pursuant to § 32.26 of 10 CFR 32, issued License No. 48–16514–02E to City Tool and Manufacturing Co., Inc., 1002 South 12th Street, P.O. Box 455, Watertown, Wisconsin 53094, which authorizes the distribution of Model ID–4 fire detectors to persons exempt from requirements for a license pursuant to § 30.20 to 10 CFR 30.

1. The devices are designed to detect incipient fires by responding to the products of combustion produced by thermal decomposition of building materials or contents prior to the appearance of visible smoke, flame, or appreciable heat. The sensitive element of each device is an ionization chamber in which air flowing into the chamber is made conductive by alpha particles emitted by americium–241.

2. The byproduct material incorporated in the active chamber of each device is americium–241 in oxide form contained in foils manufactured by Amersham/Searle (Model AMM 1001). The maximum activity contained in a unit is 2.5 microcuries.

3. Each exempt unit will have a label identifying the manufacturer (by reference of the License Number) and the byproduct material (americium–241) contained in the unit and recommending that the unit be returned to Master Lock Co., (a secondary distributor) for repair or disposal.

A copy of the license and the license application containing additional information are available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

Dated at Bethesda, Maryland, October 15, 1975.

For the Nuclear Regulatory Commission.

BERNARD SINGER,
Chief, Materials Branch, Division of Fuel Cycle and Material Safety.

[FR Doc.75–28948 Filed 10–28–75;8:45 am]

[Docket No. 50–261]

CAROLINA POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 13 to Facility Operating License No. DPR–23 issued to Carolina Power & Light Company which revised Technical Specifications for operation of the H. B. Robinson Unit 2, located in Darlington County, Hartsville, South Carolina. The amendment is effective as of its date of issuance.

The amendment (1) revises the operating limits in the Technical Specifications based upon an acceptable evaluation model that conforms to the requirements of 10 CFR 50.46, and (2) terminates restrictions imposed on the facility by the Commission's December 27, 1974 Order for Modification of License, and imposes instead, limitations established in accordance with 10 CFR 50.46.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the FEDERAL REGISTER on July 7, 1975 (40 FR 28509). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

For further details with respect to this action, see (1) the application for amendment dated October 2, 1974, as supplemented March 14, 1975, April 18, 1975, June 20, 1975 and July 24, 1975, (2) Amendment No. 13 to License No. DPR–23, with Change No 38, (3) the Commission's related Safety Evaluation (4) the Commission's Negative Declaration dated September 25, 1975, which is being published concurrently with this notice, and (5) the Commission's associated Environmental Impact Appraisal. All of these items are available for public inspection at the Commision's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Hartsville Memorial Library, Home & Fifth Avenues, Hartsville, South Carolina.

A copy of items (2), (3), (4) and (5) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 17th day of October, 1975.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch #4, Division of Reactor Licensing.

[FR Doc.75–28949 Filed 10–28–75;8:45 am]

[Docket No. 50-265]

COMMONWEALTH EDISON CO. AND IOWA-ILLINOIS GAS AND ELECTRIC CO.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 17 to Facility Operating License No. DPR-30, issued to the Commonwealth Edison Company (acting for itself and on behalf of the Iowa-Illinois Gas and Electric Company), which revised Technical Specifications for operation of the Quad Cities Station Unit 2 (the facility) located in Rock Island County, Illinois. The amendment is effective of its date of issuance.

This amendment authorizes Commonwealth Edison to carry out work that has the potential to partially drain the reactor vessel with the suppression pool water volume less than 112,200 ft^3, provided that a total of 112,200 ft^3 of water is available for cooling, including the quantity of water contained in the refueling cavity and the spent fuel pool above the bottom of the spent fuel pool gate.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated October 15, 1975, (2) Amendment No. 17 to License No. DPR-30, with Change No. 31, and (3) the Commission's concurrently issued related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Moline Public Library, 504 17th Street, Moline, Illinois 60625. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 17th day of October, 1975.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch #2, Division of Reactor Licensing.

[FR Doc.75-28943 Filed 10-28-75;8:45 am]

[Docket No. 50-336]

CONNECTICUT LIGHT AND POWER CO. ET AL. (MILLSTONE NUCLEAR POWER STATION, UNIT 2)

Issuance of Amendment to Facility Operating License

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has issued Amendment No. 5 to Facility Operating License No. DPR-65 issued to The Connecticut Light and Power Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, and Northeast Nuclear Energy Company (licensees). This amendment is effective as of the date of issuance.

The amendment changes certain of the Technical Specifications to (1) eliminate the potential for spurious reactor trips during low power physics testing, (2) to permit periodic verification of the actual versus the predicted core reactivity condition occurring as a result of fuel burnup or fuel cycling operations, and (3) to correct certain proofreading errors.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated October 3, 1975, (2) Amendment No. 5 to License No. DPR-65, with any attachments, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Waterford, Connecticut. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 17th day of October 1975.

For the Nuclear Regulatory Commission.

RALPH A. BIRKEL,
Acting Chief, Light Water Reactors Project Branch 1-3, Division of Reactor Licensing.

[FR Doc.75-28944 Filed 10-28-75;8:45 am]

[Docket Nos. 50-70, 50-73]

GENERAL ELECTRIC CO.

Order Designating Prehearing Conference

The Nuclear Regulatory Commission on June 27, 1975 issued a Notice of Hearing in this proceeding and thereby granted the request of General Electric Company, Nuclear Energy Division, 175 Curtner Avenue, San Jose, California (GE) (Vallecitos) for a hearing in reference to a proposed imposition of civil penalties. The Notice provided that the time and place of the hearing would be designated at a later time. Both GE and the Regulatory Staff have stipulated that a prehearing conference could be held on a mutually convenient date of October 29, 1975 at San Francisco.

Wherefore, *it is ordered*, That a prehearing conference in this proceeding shall convene at 9 a.m. on October 29, 1975 in the U.S. Tax Court, Room 2021, 2nd Floor, Federal Building and Courthouse, 450 Golden Gate Avenue, San Francisco, California 94102 to consider the issues specified by the Nuclear Regulatory Commission in the Notice of Hearing issued June 27, 1975.

Issued: October 20, 1975, Bethesda, Maryland.

Nuclear Regulatory Commission.

SAMUEL W. JENSCH,
Administrative Law Judge.

[FR Doc.75-28945 Filed 10-28-75;8:45 am]

[Docket No. 50-261]

H. B. ROBINSON STEAM ELECTRIC PLANT, UNIT 2

Negative Declaration Regarding Proposed Changes to the Technical Specifications of License DPR-23

The Nuclear Regulatory Commission (the Commission) has considered the issuance of changes to the Technical Specifications of Facility Operating License No. DPR-23. These changes would authorize the Carolina Power and Light Company (the licensee) to operate the H. B. Robinson Steam Electric Plant, Unit 2 (located in Darlington County, Hartsville, South Carolina), with changes to the limiting conditions for operation associated with fuel assembly specific power resulting from application of the Acceptance Criteria for Emergency Core Cooling System (ECCS).

The U.S. Nuclear Regulatory Commission, Division of Reactor Licensing, has prepared an environmental impact appraisal for the proposed changes to the Technical Specifications of License No. DPR-23, H. B. Robinson Steam Electric Plant, Unit 2, described above. On the basis of this appraisal, the Commission has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the proposed action other than that which has already been predicted and described in the Commission's Final Environmental Statement for H. B. Robinson Steam Electric Plant, Unit 2, published in April 1975.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina.

Dated at Rockville, Maryland, this 25th day of September 1975.

For the Nuclear Regulatory Commission.

WM. H. REGAN, JR.,
Chief, Environmental Projects Branch 4, Division of Reactor Licensing.

[FR Doc.75-28950 Filed 10-28-75;8:45 am]

[Docket No. 50-321]

GEORGIA POWER CO. AND OGLETHORPE ELECTRIC MEMBERSHIP CORP.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 16 to Facility Operating License No. DPR-57 issued to Georgia Power Company and Oglethorpe Electric Membership Corporation which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant Unit 1, located in Appling County, Georgia. The amendment is effective as of its date of issuance.

The amendment incorporates additional suppression pool water temperature limits: (1) during any testing which adds heat to the pool, (2) at which reactor scram is to be initiated and (3) requiring reactor pressure vessel depressurization. It also adds surveillance requirements for visual examination of the suppression chamber during each refueling and following operations in which the pool temperatures exceed 160° F and add monitoring requirements of water temperatures during operations which add heat to the pool.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the FEDERAL REGISTER on July 24, 1975 (40 FR 31045). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

For further details with respect to this action, see (1) the application for amendment dated March 31, 1975, (2) Amendment No. 16 to License No. DPR-57, with Change No. 16 and (3) the Commission's related Safety Evaluation issued on July 16, 1975. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Appling County Public Library, Park Street, Baxley, Georgia.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 10th day of October, 1975.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch # 3, Division of Reactor Licensing.

[FR Doc.75-28932 Filed 10-28-75;8:45 am]

[Docket No. 50-321]

GEORGIA POWER CO. AND OGLETHORPE ELECTRIC MEMBERSHIP CORP.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 19 to Facility Operating License No. DPR-57 issued to Georgia Power Company and Oglethorpe Electric Membership Corporation which revised Technical Specifications for operations of the Edwin I. Hatch Nuclear Plant, Unit 1, located in Appling County, Georgia. The amendment is effective as of its date of issuance.

The amendment will revise the Turbine Control Valve Fast Closure (TCVFC) scram trip setting and the associated Reactor Protective System (RPS) instrumentation functional test and calibration surveillance requirements.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated June 26, 1975, (2) Amendment No. 19 to License No. DPR-57, with Change No. 19, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Appling County Public Library, Parker Street, Baxley, Georgia.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 16th day of October, 1975.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch #3, Division of Reactor Licensing.

[FR Doc.75-28933 Filed 10-28-75;8:45 am]

[DOCKET NO. 50-309]

MAINE YANKEE ATOMIC POWER CO.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 13 to Facility Operating License No. DPR-36 issued to Maine Yankee Atomic Power Company which revised Technical Specifications for operation of the Maine Yankee Atomic Power Station, located in Lincoln County, Maine. The amendment is effective as of its date of issuance.

The amendment modifies requirements for measuring temperatures in the plant cooling water systems. The modifications are appropriate to a change in the discharge structure that was required to fulfill a condition by the State of Maine and subsequently ordered by an ASLAB decision requiring waste heat from the plant to be confined to a 25-acre mixing zone.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated August 15, 1975 and (2) Amendment No. 13 to License No. DPR-36 with Change No. 21. Both of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Wiscasset Public Library Association, High Street, Wiscasset, Maine.

A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland this 16th day of October 1975.

For the Nuclear Regulatory Commission.

DANIEL R. MULLER,
Assistant Director for Environmental Projects, Division of Reactor Licensing.

[FR Doc.75-28934 Filed 10-28-75;8:45 am]

[Docket No. 50-289]

METROPOLITAN EDISON CO.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 8 to Facility Operating License No. DPR-50 issued to Metropolitan Edison Company which revised Technical Specifications for operation of the Three Mile Island Nuclear Station, Unit 1, located in Dauphin County, Pennsylvania. The amendment is effective as of its date of issuance.

The amendment provides for the chlorination testing to be completed in one consecutive 90-day period during the first two years of plant operation.

The application for the amendment complies with the standards and require-

ments of the Atmoic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated May 7, 1975, and (2) Amendment No. 8 to License No. DPR–50 with Change No. 8. Both of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the State Library of Pennsylvania, Government Publications Section, Education Building, Harrisburg, Pennsylvania.

A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 16th day of October 1975.

For the Nuclear Regulatory Commission.

DANIEL R. MULLER,
Assistant Director for Environmental Projects, Division of Reactor Licensing.

[FR Doc.75-28935 Filed 10-28-75;8:45 am]

[Docket No. 50-298]

NEBRASKA PUBLIC POWER DISTRICT

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 14 to Facility Operating License No. DPR–46, issued to the Nebraska Public Power District (the licensee), which revised Technical Specifications for operation of the Cooper Nuclear Station (the facility) located in Nemaha County, Nebraska. The amendment is effective as of its date of issuance.

This amendment changes the fuel grapple hoist load switch setting from $\leq$ 1200 lbs. to $\leq$ 650 lbs. and corrects several clerical errors and oversights in various sections of the Technical Specifications.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated July 3, 1975, (2) Amendment No. 14 to License No. DPR–46, with Change No. 17 and (3) the Commission's concurrently issued Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Auburn Public Library, 1118 15th Street, Auburn, Nebraska 68305. A copy of items (2) and (3) may be obtained upon request addressed to the United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 17th day of October, 1975.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Reactor Licensing.

[FR Doc.75-28936 Filed 10-28-75;8:45 am]

[Docket No. 50-245]

NORTHEAST NUCLEAR ENERGY CO. ET AL.

Issuance of Amendment to Provisional Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 16 to Provisional Operating License No. DPR–21 issued to Northeast Nuclear Energy Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, and Connecticut Light and Power Company, which revised Technical Specifications for operation of the Millstone Nuclear Power Station, Unit 1, located in Waterford, Connecticut. The amendment is effective as of its date of issuance.

The amendment revises the operating limits in the Technical Specifications based upon an evaluation of the ECCS performance calculated in accordance with an acceptable evaluation model that conforms to the requirements of the Commission's regulations in 10 CFR Part 50, § 50.46. The amendment also incorporates operating limits in the Technical Specifications based on the General Electric Thermal Analysis Basis in accordance with the licensees' application for amendment dated July 9, 1975 and supplement dated July 25, 1975 for Reload 3, Cycle 4 operation of Millstone Unit 1.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the FEDERAL REGISTER on September 4, 1975 (40 FR 40879). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

For further details with respect to this action, see (1) the application for license amendment dated July 9, 1975 and supplement dated July 25, 1975, (2) Amendment No. 16 to License No. DPR–21 with Change No. 29 to the Technical Specifications, (3) the Commission's related Safety Evaluation, and (4) the Commission's Negative Declaration (which is also being published in the FEDERAL REGISTER) and associated Environmental Impact Appraisal all of which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385.

A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 17th day of October, 1975.

For the Nuclear Regulatory Commission.

WALTER A. PAULSON,
Acting Chief, Operating Reactors Branch No. 3, Division of Reactor Licensing.

[FR Doc.75-28937 Filed 10-28-75;8:45 am]

[License No. 12-15537-02E]

SDI/FIREX, INC.

Issuance of Byproduct Material License

Please take notice that the Nuclear Regulatory Commission (NRC) has, pursuant to § 32.26 of 10 CFR 32, issued License No. 12–15537–02E to SDI/FIREX, Inc., 1940 B Lehigh Road, Glenville, Illinois, which authorizes the distribution of Model 100 fire detectors to persons exempt from requirements for a license pursuant to § 30.20 of 10 CFR 30.

1. The devices are designed to detect incipient fires by responding to the products of combustion produced by thermal decomposition of building materials or contents prior to the appearance of visible smoke, flame, or appreciable heat. The sensitive element of each device is an ionization chamber in which air flowing into the chamber is made conductive by alpha particles emitted by americium-241.

2. The byproduct material incorporated in the active chamber of each device is americium-241 in the oxide form contained in foils manufactured by Nuclear Radiation Developments (Model A–001) or by Amersham/Searle (Model AMM 1001H). The maximum activity contained in a unit is 1.3 microcuries.

3. Each exempt unit will have a label identifying the manufacturer (SDI/FIREX, Inc.) and the byproduct material (americium-241) contained in the unit and recommending that the unit be returned to SDI/FIREX, Inc., for repair or disposal.

A copy of the license and the license application containing additional information are available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

Dated at Bethesda, Maryland, October 17, 1975.

For the Nuclear Regulatory Commission.

BERNARD SINGER,
Chief, Materials Branch, Division of Fuel Cycle and Material Safety.

[FR Doc.75-28938 Filed 10-28-75;8:45 am]

[Docket Nos. 50-460, 50-513]

WASHINGTON PUBLIC POWER SUPPLY SYSTEM (WPPSS NUCLEAR PROJECTS 1 AND 4)

Notice and Order Setting Evidentiary Hearing on Further Limited Work Authorizing Activities

The U.S. Nuclear Regulatory Commission (the Commission) by its September 16, 1974 "Notice of Receipt of Amended Application for Construction Permits and Facility Licenses and Notice of Hearing on Amended Application for Construction Permits: Time for Submission of Views on Antitrust Matters" (Notice of Hearing), ordered a hearing to be held on the application by the Washington Public Power Supply System (Applicant) for construction permits for two pressurized water reactors designated as WPPSS Nuclear Projects 1 and 4.

Sessions of the evidentiary hearing were held May 13-15, 1975 and September 29, 1975 on environmental and site suitability issues by the Atomic Safety and Licensing Board (the Board), which is composed of Dr. Marvin M. Mann and Dr. Donald P. de Sylva as technically qualified members, and Daniel M. Head as chairman. The purpose of this Notice of Hearing is for the Board to set the evidentiary hearing on the health and safety issues in the above-identified proceeding.

Accordingly, please take notice and it is hereby ordered, That an evidentiary hearing on health and safety issues will be held at 10 a.m. local time on Tuesday, November 11, 1975 in Room 189, U.S. District Courtroom, U.S. Post Office and Courthouse, 825 Jadwin Avenue, Richland Washington 99352. The hearing shall run continuously until all evidence has been received on the health and safety issues or until continued by further order of the Board.

Members of the public are invited to attend this evidentiary hearing and individuals or organizations wishing to make a limited appearance pursuant to 10 CFR 2.715(a) will be permitted to do so just prior to the starting of the evidentiary hearing.

Dated at Bethesda, Maryland this 21st day of October 1975.

By order of the Atomic Safety and Licensing Board.

DANIEL M. HEAD,
Chairman.

[FR Doc.75-28939 Filed 10-28-75;8:45 am]

[Dockets Nos. 50-266 and 50-301]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 11 and 14 to Facility Operating Licenses Nos. DPR-24 and DPR-27 issued to Wisconsin Electric Power Company and Wisconsin Michigan Power Company, which revised Technical Specifications for operation of the Point Beach Nuclear Plant Units Nos. 1 and 2, located in the town of Two Creeks, Manitowoc County, Wisconsin.

The amendments allow modification of the spent fuel storage racks and modify the Technical Specifications to place restrictions on spent fuel storage to limit the decay heat input to the spent fuel pool water, and restrict the use of two relocated spent fuel storage racks which would be seismically unrestrained.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Notice of Proposed Issuance of Amendments to Facility Operating Licenses in connection with this action was published in the FEDERAL REGISTER on May 20, 1975 (40 FR 22023). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

For further details with respect to this action, see (1) the application for amendments dated March 28, 1975 and Supplement dated June 25, 1975, (2) Amendments Nos. 11 and 14 to Licenses Nos. DPR-24 and DPR-27, with Changes Nos. 16 and 20, (3) the Commission's related Safety Evaluation, (4) the Negative Declaration, and (5) the Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Document Department, University of Wisconsin—Stevens Point Library, Stevens Point, Wisconsin 54481.

A copy of items (2), (3), (4), and (5) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 20th day of October 1975.

For the Nuclear Regulatory Commission.

WALTER A. PAULSON,
Acting Chief, Operating Reactors Branch #3, Division of Reactor Licensing.

[FR Doc.75-28940 Filed 10-28-75;8:45 am]

[Docket Nos. STN 50-502 and STN 50-503]

WISCONSIN ELECTRIC POWER CO. ET AL.

Availability of Safety Evaluation Report for Koshkonong Nuclear Plant, Units 1 and 2

Notice is hereby given that the Office of Nuclear Reactor Regulation has published its Safety Evaluation Report on the proposed construction of the Koshkonong Nuclear Plant, Units 1 and 2, to be located in Jefferson County, Wisconsin. Notice of receipt of application from Wisconsin Electric Power Company, Wisconsin Power & Light Company, Wisconsin Public Service Corporation, and Madison Gas & Electric Company to construct and operate the Koshkonong Nuclear Plant was published in the FEDERAL REGISTER on October 25, 1974 (39 FR 38015).

The application was submitted and accepted for review under the Commission's standardization policy using the duplicate plant option, described in Appendix N to the Commission's regulations in Part 50 of Title 10 of the Code of Federal Regulations.

The report is being referred to the Advisory Committee on Reactor Safeguards and is being made available at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, at the Dwight Foster Public Library, 102 Milwaukee Avenue, East, Fort Atkinson, Wisconsin 53538, and at the Municipal Reference Service of the Madison Public Library, Room 103-B, Madison, Wisconsin 53709, for inspection and copying. The report (Document No. NUREG 75-092) can also be purchased for $7.00 each (microfiche $2.25) from the National Technical Information Service, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 21st day of October 1975.

For the Nuclear Regulatory Commission.

KARL KNIEL,
Chief, Light Water Reactors Branch 2-2, Division of Reactor Licensing.

[FR Doc.75-28941 Filed 10-28-75;8:45 am]

[Docket No. 50-305]

WISCONSIN PUBLIC SERVICE CORP. ET AL.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 7 to Facility Operating License No. DPR-43 issued to Wisconsin Power and Light

Corporation, Wisconsin Power and Light Company, and Madison Gas and Electric Company which revised Technical Specifications for operation of the Kewaunee Nuclear Power Plant located in Kewaunee, Wisconsin. The amendment is effective as of its date of issuance.

This amendment changes the license to provide for standard provisions for special nuclear, source, and byproduct materials and adds surveillance requirements to the Technical Specifications for Radioactive Materials Sources.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated August 4, 1975, as supplemented September 19, 1975, (2) Amendment No. 7 to License No. DPR-43, with Change No. 9, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Kewaunee Public Library, 314 Milwaukee Street, Kewaunee, Wisconsin 54216.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 21st day of October 1975.

For the Nuclear Regulatory Commission.

ROBERT A. PURPLE,
Chief, Operating Reactors #1, Division of Reactor Licensing.

[FR Doc.75-28942 Filed 10-28-75;8:45 am]

[Docket No. PRM-20-6]

NATURAL RESOURCES DEFENSE COUNCIL, INC.

Filing of Petition for Rule Making

Notice is hereby given that J. Gustave Speth, Esq., by letter dated September 26, 1975, has filed with the Nuclear Regulatory Commission a petition for rule making on behalf of the Natural Resources Defense Council, Inc., 917 15th Street, NW., Washington, D.C., requesting amendment of the Commission's "Standards for Protection Against Radiation," 10 CFR Part 20. Attached to the petition is a report prepared by Thomas B. Cochran, Ph.D., and Arthur R. Tamplin, Ph.D., entitled "Radiation Standards for Occupational Whole Body Exposure," dated September 25, 1975. The petitioners state that this report and the documents referenced therein provide the principal support for and elaboration of the petition.

The petitioners request that the Commission amend its radiation protection standards as they apply to the maximum permissible whole body dose equivalent for occupational exposure. The limits on exposure of individuals to radiation in restricted areas are set out in § 20.101 of 10 CFR Part 20. Limits regarding exposure of minors to radiation in restricted areas are set out in § 20.104 of 10 CFR Part 20. The petitioners request that the current regulations be amended as follows:

1. For individuals under the age of M, where M is to be designated by the NRC but is not less than 45 years of age, the whole body radiation exposure limit shall not exceed 0.5 rem in any calendar year and 0.3 rem in any calendar quarter.

2. For individuals equal to or greater than M years of age, a licensee may permit an individual to receive up to 3 rem per quarter whole body dose as long as the dose to the whole body shall not exceed (0.5) (M—18) + X(N—M) rem, where N equals the individual's age in years, and X is calculated to reduce the cumulative somatic risks by a factor of 6 below the cumulative risks associated with exposure at 5 rem per year from age 18. It is proposed that the value X be calculated using the relative risk model as described more fully in the BEIR Report.[1]

The petitioners also request that the Commission institute hearings to determine the "as low as practicable" extent to which the exposures can be maintained below the new regulations proposed by the petitioners.

The petitioners state that the objective of their proposal is to reduce the genetic risk associated with radiation exposure at the occupational exposure level permitted by 10 CFR Part 20 by a factor of 10 and to reduce the somatic risk by a factor of 6.

A copy of the petition for rule making is available for public inspection in the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. A copy of the petition may be obtained by writing the Division of Rules and Records at the below address.

All interested persons who desire to submit written comments or suggestions concerning the petition for rule making should send their comments to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, on or before December 29, 1975.

Dated at Washington, D.C., this 21st day of October 1975.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.75-28778 Filed 10-28-75;8:45 am]

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[1] National Academy of Sciences, National Research Council, "The Effects on Populations of Exposure to Low Levels of Ionizing Radiation," Report of the Advisory Committee on the Biological Effects of Ionizing Radiations, November, 1972, p. 171.

[Docket Nos. 50-369 and 50-370]

DUKE POWER CO. [WILLIAM B. McGUIRE] NUCLEAR STATION, UNITS 1 AND 2]

Availibility of Draft Environmental Statement

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed operation of William B. McGuire Nuclear Station, Units 1 and 2, by Duke Power Company, located in Mecklenburg County, North Carolina, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. and in the Public Library of Charlotte and Mecklenburg County, 310 North Tryon Street, Charlotte, North Carolina. The Draft Statement (NUREG-75/104) is also being made available at the Office of Intergovernmental Relations, 116 West Jones Street, Raleigh, North Carolina, and at the Centralina Council of Governments, Suite 301, 1229 Greenwood Cliff, P.O. Box 4168, Charlotte, North Carolina. Requests for copies of the Draft Environmental Statement should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C., Attention: Director, Division of Reactor Licensing.

The Applicant's Environmental Report, as supplemented, submitted by Duke Power Company 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 June 14, 1974 (39 F.R. 20833).

Pursuant to 10 CFR Part 51, 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 December 22, 1975. Comments by Federal, State, and local officials, or other 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 Public Library of Charlotte and Mecklenburg County, 310 North Tryon Street, Charlotte, North Carolina. Upon consideration of comments submitted with respect to the draft environmental statement, the Commission's 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 persons of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor, Licensing.

Dated at Rockville, Maryland, this 22nd day of October 1975.

For the Nuclear Regulatory Commission.

WM. H. REGAN, Jr.,
Chief, Environmental Projects Branch 4, Division of Reactor Licensing.

[FR Doc.75-21939 Filed 10-28-75;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON WASTE MANAGEMENT

Notice of Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Subcommittee on Waste Management will hold a meeting on November 13–15, 1975 in Room 1046, 1717 H St. NW., Washington, D.C. 20555. The purpose of this meeting is to develop information on the status of current waste management techniques within the nuclear industry.

The agenda for subject meeting shall be as follows:

Thursday, November 13, 1975, 8:30 a.m. The Subcommittee will meet in closed Executive Session, with any of its consultants who may be present, to explore their preliminary opinions based upon their independent review of available reports regarding matters which should be considered during the open session in order to formulate a Subcommittee report and recommendations to the full Committee.

9:00 a.m. until the conclusion of business. The Subcommittee will meet in open session to be briefed by representatives of the Energy Research and Development Administration (ERDA), Natural Resources Defense Council (NRDC), National Academy of Sciences (NAS), Atomic Industrial Forum (AIF), and others, on their plans, views, and evaluations of current and future methods for the management of radioactive wastes.

At the conclusion of the open session, the Subcommittee will caucus in a closed session to determine whether the matters identified in the initial closed session have been adequately covered and whether the matter is ready for review by the full Committee. During the session Subcommittee members and consultants will discuss their final opinions and recommendations on these matters.

I have determined, in accordance with Subsection 10(d) of Public Law 92-463, that it is necessary to conduct the above closed sessions to protect the free interchange of internal views in the final stages of the Subcommittee's deliberative process (5 U.S.C. 552(b)(5)). Separation of factual material from individuals' advice, opinions, and recommendations while closed Executive Sessions are in progress is considered impractical.

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 statements regarding the agenda items may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. Comments should be limited to safely related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than November 6, 1975 to Mr. R. Muller, ACRS, NRC, Washington, D.C., 20555, will normally be received in time to be considered at this meeting.

(b) Those persons wishing to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements on topics relevant to the Committee's purview at an appropriate time chosen by the Chairman of the Subcommittee.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on November 12, 1975 to the Office of the Executive Director of the Committee (telephone 202/634-1413, Attn: Mr. R. Muller) between 8:15 a.m. and 5:00 p.m., EST.

(d) Questions may be propounded only by members of the Subcommittee and its consultants.

(e) 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.

(f) Persons with agreements or orders permitting access to proprietary information, other than plant security information, may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Mr. R. Muller of the ACRS Office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion of the meeting will be available for inspection on or after November 21, 1975 at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555. Copies of the minutes of the meeting will be made available for inspection at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555 after February 16, 1976. Copies may be obtained upon payment of appropriate charges.

Dated: October 24, 1975.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.75-29239 Filed 10-28-75;10:00 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 October 23, 1975 (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(s), 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.

Requests for extension which appear to raise no significant issues 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), or from the reviewer listed.

NEW FORMS

UNITED STATES INTERNATIONAL TRADE COMMISSION

Producers' questionnaire—certain gloves, single-time, domestic manufacturer, Evinger, S.K., 395-3710.

Importers' questionnaire—certain gloves, single-time, importers, Evinger, S.K., 395-3710.

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Evaluation of state-based humanities program, single-time, regrant audiences and participants, human resources divison, Raynsford, R., 395-3532.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services Administration, National Health Service Corps alumni questionnaire, Hsabchs 100, annually, NHSC alumni, Dick Eisinger, 395–6140.

Office of Human Development, screening questionnaire statistical survey on runaways, phase II, single-time, individuals, Reese, B. F. 395–3211.

Office of Education, application for Federal assistance (short form), instructions for arts education projects, OE 449, annually, LEA'S and SEA'S, Lowry, R. L., 395–3772.

DEPARTMENT OF THE INTERIOR

Bureau of Sport Fisheries and Wildlife, daily report of commercial fisheries of the Great Lakes, 3–234, monthly, commercial fishermen on Great Lakes, Lowry, R. L., 395–3772.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration, signal design survey (symbol and message/operation study), on occasion, pedestrians, Harry B. Sheftel.

REVISIONS

VETERANS ADMINISTRATION

Enrollment certification (under chapter 34, or 35, title 38, U.S.C.) 21E–1999–1, 22–1999, on occasion schools, Caywood, D. P., 395–3443.

DEPARTMENT OF COMMERCE

Bureau of Census, annual appearel manufacturing survey, MA–23A, annually, apparel manufacturers and jobbers, Peterson, M. O., 395–5631.

Bureau of Domestic Commerce, request for special priorities assistance, DIB 999, on occasion, Government contractors, Harry B. Sheftel.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration, airport certification/safety checklist, FAA5280–3, on occasion, airport operators, Harry B. Sheftel.

EXTENSIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, refund questionnaire (for overpayment of social security benefits), SSA–632, on occasion, individuals, Marsha Traynham, 395–4529.

Office of the Secretary, analyze obstacles to obtaining home health care and recommend regional HEW strategies, OS–49–75, single-time, agency staffs, Dick Eisinger, 395–6140.

DEPARTMENT OF THE TREASURY

Bureau of Customs:

Flight verification card, CF 7309A, on occasion, air carriers, Marsha Traynham, 395–4529.

Bonded fuel control card, CF–7309, on occasion, warehouse proprietors, Marsha Traynham, 395–4529.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration, certification pilot and flight instructors, FAR 61, on occasion, pilots and flight instructors, Marsha Traynham, 395–4529.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.75–29158 Filed 10–28–75;8:45 am]

POSTAL RATE COMMISSION

[Docket No. RM76–4]

PRIVATE EXPRESS STATUTES

Notice of Inquiry

OCTOBER 22, 1975.

The Commission has before it the April 29, 1975 Order in MC73–1 (Order No. 61, April 29, 1975). In that order the Commission accepted certification of the following question:

Does the Postal Rate Commission have jurisdiction over the Postal Service regulations which purport to implement the Private Express Statutes?

At the time the Commission noted that it had not reached a decision concerning the appropriate forum for resolution of that question.

Upon consideration, we have decided to start a new proceeding rather than keep the issue within the classification case. Our decision is motivated primarily by the fact that the private express issue transcends classification since it also could affect rates and service. In addition, there are interested parties outside the classification case who may wish to comment and a rulemaking-type of proceeding such as this is the vehicle conducive for consideration of those comments. The Commission does not have to be concerned about potential delay in MC73–1 and we will be able to carefully consider the matter without regard to extraneous matters which could delay a final decision on private express.

BACKGROUND OF REGULATIONS

Section 7 of the Postal Reorganization Act (Pub. L. No. 91–375, 84 Stat. 783) required that the Postal Service undertake a study and thorough reevaluation of the restrictions on the private carriage of letters. The Act also required that the Postal Service submit a report to the President and to Congress. On June 29, 1973, the Board of Governors issued its report.[1] The report concluded that the Private Express Statutes[2] must be retained and that no change in the law was required (*id.* at 1). The Postal Service's chief concern is that a relaxation of the postal monopoly will result in what is commonly known as "cream-skimming," viz., competing in the profitable markets and ignoring the unprofitable segments of the market. The Governors found that the monopoly is needed to permit subsidization of high-cost postal patrons (*e.g.*, those served by fourth-class post offices) by low-cost patrons (*e.g.*, within city mailers). Moreover, they found that private competition in the delivery of letters would necessarily result in at least one of the following:

(1) Non-uniform first class rates;

(2) Abandonment of service where competitive prices could not be met;

(3) Massive government subsidies; or

(4) Total reliance on private firms for carriage of letters (*id.* at 9–10).

In the Governor's report to the President and Congress, it noted that, while no changes in the Statutes are required, certain administrative practices should be improved. [Report at 2.] To that end, the Postal Service proposed a revised set of basic legulations [38 FR 17512 (1973)]. The regulations purported to "improve" the administration of the restrictions by clarifying the definition of "letter" and by modifying past administrative practices.

In its rulemaking, the Postal Service proposed that a "letter" be defined simply but comprehenesively as "a message in or on a physical object sent to a specific address." [38 FR 17513(1973).] In its original notice, certain previous exceptions to the definition of "letter" were eliminated. Among them were: (1) Matter conveying information already known to the addressee, (2) checks and other commercial papers, (3) legal papers and documents, (4) matters set for auditing and preparation of bills, and (5) matter sent for filing or storage. [*Id.*]

While expanding the concept of "letter," the Postal Service also proposed to mitigate the impact of the PES by "suspending" them for four different categories of mail:

(1) Interoffice communications between offices and branches of the same corporation, partnership, or other organization when transmission must be and is completed within 12 hours or by not later than the opening of the addressee's business on his next working day. [38 FR 17515 (1973).]

(2) Data processing materials conveyed to or back from a company-owned or independent data processing center, when transmission must be and is completed within 12 hours or by not later than the opening of the addressee's business on his next working day. [*Id.*]

(3) Checks and other financial instruments, such as stock certificates, promissory notes, bonds and other negotiable securities * * *. [*Id.*]

(4) Newspapers and periodicals. [*Id.*]

In response to comments filed, the final regulations, issued on September 16, 1974 (39 FR 33209), encompassed a number of changes.[3] First, the suspension for checks and financial instruments and the suspension for newspapers and periodicals were relocated to the definitional section, thereby taking those items out of the definition of a "letter." In making this change however, the Postal Service relied on its "suspension authority" in 39 U.S.C. 601(b) for the power to take these items out of the definition of a "letter." [*Id.*]

The second major change made in the final version of the rules was to omit the suspension of intra-company materials. The original version of the rules

[1] The report is captioned "United States Postal Service, the Private Express Statutes and Their Administration" (1973) (hereinafter cited as "Report").

[2] The Private Express Statutes are found in 18 U.S.C. 1693–99, 1724; 39 U.S.C. 601–06 (1970).

[3] Other minor changes were made earlier [39 FR 3968 (Jan. 31, 1974)].

called for a reporting system designed to enforce the limitations that had been written into the proposed suspension. After receiving comments, the Postal Service concluded that the reporting system was unworkable. In addition, the Postal Service claimed that its decision to drop the suspension was also motivated by two other developments: (1) The expansion of the Express Mail Program which provides long-distance courier speed delivery of letters in many markets; and (2) the precarious financial condition of the Postal Service which argued against any potentially large revenue diminution.

With respect to the Postal Service's "suspension authority," in his Legal Memorandum, dated July 31, 1974, the Assistant General Counsel, Litigation, argued that the Posal Service had no such power under § 601(b) of the Postal Reorganization Act. We would like the Postal Service, and other interested parties, to discuss that issue. In addition, we would like the parties to discuss whether the Private Express Statutes can be suspended since the scope of the postal monopoly is found in the criminal code, and normally, criminal statutes cannot be suspended administratively.

JURISDICTION

As a preliminary matter, it appears that jurisdiction could lie if it were found that the Postal Service's regulations adversely impacted or were interrelated with the Commission's successful performance of its statutory duties with respect to rates, classification and service.[4] Such regulation would be limited to that reasonably ancillary to the effective performance of the Commission's various responsibilities. *United States* v. *Southwestern Cable Co.*, 392 U.S. 157, 178 (1968). For example, if it were found that the Commission could not implement §§ 3622(b)(4) and 3622(b)(5) without an interpretation of the Private Express Statutes, then the Commission would be constrained to act. The authority to act may be found in § 3603 of the Act which allows the Commission to take action deemed "necessary and proper to carry out" our "functions and obligations to the Government of the United States and the people."[5] Such a general provision has been ruled to include broad, substantive powers, and "not restricted to procedural minutiae." *Municipal Light Board* v. *FPC*, 450 F.2d 1341, 1346 (1971), *cert. denied*, 405 U.S. 989 (1972).

The Commission is interested to determine the impact, both qualitatively and quantitatively, of the Postal Service's regulation on rate, classification and service matters. Both as a legal and policy matter, the impact must be substantial in order for the Commission to exercise any jurisdiction. Certain questions arise concerning impact. In the area of service, for example, how is a user's postal service changed or adversely affected by a Postal Service decision that certain activity falls within the postal monopoly?

Instead of exercising jurisdiction in a manner ancillary to its principal functions, the Commission could find that § 3661 applies and require the Postal Service to submit its regulations to the Commission for an advisory opinion. Such a conclusion is conditioned on whether there is a "change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis." The parties are requested to address this question. Moreover, we foresee procedural difficulties if we find jurisdiction under § 3661 and the Postal Service refuses to request an advisory opinion. Furthermore, is an advisory opinion an adequate mechanism to insure compliance with § 3622 and § 3623 of the Act? If not, what alternative exists?

In this regard we do not contemplate that our exercise of jurisdiction over certain monopoly matters—to the extent that they relate to our regulatory responsibilities set forth in Chapter 36 of the Act—would replace or materially interfere with the Postal Service's implementation of its PES regulations. There seems little doubt that the Postal Service has the primary administrative responsibility for the enforcement of its monopoly.[6] It is the role of defining the scope of that monopoly, and its related impact on our responsibilities, that concern us.[7]

In filing comments, the parties are requested to address the following questions, some of which have been discussed above. Of course, the parties are not limited to these issues.

(1) What is the direct and indirect effect of the Postal Service's regulations implementing the Private Express Statutes on rate, classification and service matters?

(2) What is the relationship between the classification of mail for rate purposes and the classification of mail with respect to whether matter may lawfully be carried privately?

(3) Does the Postal Service have the power under § 601(b) of the Act to suspend the operation of the Private Express Statutes?

(4) How does a ruling which excludes competition or, in the alternative, permits competition, affect postal service generally, or the postal service of a specific user?

(5) To what extent, if any, do the present regulations impact the Postal Services' revenue and the volumes of the classes and subclasses of mail?

(6) Assuming that the Commission may render an advisory opinion under § 3661 of the Act with respect to the scope of the postal monopoly, must the Commission defer to the Postal Service's final opinion if the Commission determines that a specific regulation is contrary to implementation of §§ 3622 and 3623 of the Act?

(7) What specific amendments to the rules, if any, would be required to implement the Commission's assertion of jurisdiction?

Parties who have already filed comments in MC73-1 may incorporate those comments by reference if they so desire. In such cases, the parties need only file a brief statement indicating the date the earlier comments were filed.

Comments in this docket shall be filed on or before December 1, 1975. Reply comments shall be filed on or before December 15, 1975. The comments of the parties shall be filed with the Secretary of the Postal Rate Commission, 2000 L Street, NW., Suite 500, Washington, D.C. 20268.

By direction of the Commission.

[SEAL] JAMES R. LINDSAY,
Secretary.

[FR Doc.75-28983 Filed 10-28-75;8:45 am]

[4] *See* United States v. Southwestern Cable Co., 392 U.S. 157 (1968); Permian Basin Area Rate Cases, 390 U.S. 747 (1968); American Trucking Association, Inc. v. Atchison, Topeka & Santa Fe Ry., 387 U.S. 397 (1967).

[5] 39 U.S.C. § 3603.

[6] *See* National Ass'n. of Letter Carriers v. Independent Postal System of America, Inc., 336 F. Supp. 804, 808 (W. D. Okla. 1971), *aff'd*, 470 F. 2d 265 (10th Cir. 1972).

[7] We contemplate that we will issue a policy statement at the conclusion of this proceeding, indicating the nature and scope, if any, of the Commission's jurisdiction.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-11755; File No. SR-CBOE-75-3]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Extension of Time Period for Considering Proposed Rule Change

On September 12, 1975, the Chicago Board Options Exchange, Inc. ("CBOE"), LaSalle at Jackson, Chicago, Illinois, 60604, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendment of 1975, and Rule 19b-4 thereunder copies of a proposed rule change to alter the composition of its Board of Directors and to adopt various related procedural amendments.

Notice of the proposed rule change, together with the terms of substance, was given by publication of a Commission Release (Securities Exchange Act Release No. 34-11675, Septmeber 24, 1975) and by publication in the FEDERAL REGISTER (40 FR 14903, September 30, 1975).

In its September 12, 1975 filing the CBOE stated that it consented to an extension of the time period specified in Exchange Act Section 19(b)(2) until at least thirty-five days after it filed appropriate amendments reflecting the results of the Special Meeting of Members scheduled for October 6, 1975. That amendment was filed on October 10, 1975 and indicates that the CBOE membership voted in favor of the proposed amendments by a vote of 600 to 31.

On October 6, 1975, the New York Stock Exchange, Inc. ("NYSE") filed with the Commission, pursuant to Section 19(b) of the Act, as amended by the

Securities Acts Amendments of 1975, and Rule 19b–4 thereunder, copies of a proposed rule change to alter the composition of its Board of Directors and to adopt various related procedurel amendments.

Notice of the NYSE proposed rule change, together with the terms of substance, was given by publication of a Commission Release (Securities Exchange Act Release No. 34–11722, October 9, 1975) and by publication in the FEDERAL REGISTER (40 FR 48738, October 17, 1975; The comment period is from October 17–November 11, 1975).

While each of these two proposals increases the number of Board members, they do not increase the number of public directors, and thereby proportionately decrease the non-securities industry representation on both Boards. The two pending proposals thus raise similar policy questions.

The Commission finds that the CBOE proposal needs further consideration and that it would be appropriate to consider both the CBOE and NYSE proposal at the same time.

Accordingly, the Commission has determined, pursuant to Section 19(b)(2) of the Act, to extend to 90 days from October 10, 1975 the time period within which the Commission shall approve the above referenced proposed rule change of CBOE or institute proceedings to determine whether it should be disapproved.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

OCTOBER 21, 1975.

[FR Doc.75-28969 Filed 10-28-75;8:45 am]

[70-5748]

GULF POWER CO.

Proposed Issue and Sale of Preferred Stock at Competitive Bidding

OCTOBER 21, 1975.

Notice is hereby given that Gulf Power Company ("Gulf"), 75 North Pace Boulevard, Pensacola, Florida, 32502, an electric utility subsidiary company of The Southern Company, a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7 and 12(c) of the Act and Rules 42 and 50 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Gulf proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, 150,000 shares of its ——% Cumulative Preferred Stock, par value $100 per share. The dividend rate of the preferred stock (which shall be a multiple of 0.04%) and the price to be paid to Gulf (which shall be not less than $100 nor more than $102.75 per share) will be determined by the competitive bidding. The terms of the preferred stock include a prohibition until December 1, 1980, against refunding the stock, directly or indirectly, with funds obtained from the issuance of debt securities at a lower effective interest cost or of preferred stock ranking equally with or prior to the new preferred stock at a lower effective dividend cost. The authorized number of shares of preferred stock will be increased by amendment to the Articles of Incorporation of Gulf and the new preferred stock will be created, and its terms established, by resolution of the board of directors. Gulf also proposes to make provision for a cumulative sinking fund which would retire annually not more than 5% of the number of shares initially issued, commencing five years after the sale, with the noncumulative option on any sinking fund date of redeeming an additional like number of shares. The proceeds from the sale of the preferred stock and $3,500,000 of additional equity funds received from The Southern Company during 1975 (See Holding Company Act Release No. 18924), together with its cash on hand in excess of operating requirements, interest and dividends, will be used by Gulf to finance its 1975 construction program, to pay short-term promissory notes payable in the form of bank notes and commercial paper notes incurred for such purpose.

It is stated that the issuance and sale of the new bonds and new preferred stock will be expressly authorized by the Florida Public Service Commission and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. A statement of the fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment.

Notice is further given that any interested person may, not later than November 14, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.75-28967 Filed 10-28-75;8:45 am]

[File No. 500-1]

VAN DYK RESEARCH CORP.

Suspension of Trading

OCTOBER 21, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Van Dyk Research Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 9:15 a.m. (e.d.t.) on October 21, 1975 through midnight (e.d.t.) on October 30, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.75-28968 Filed 10-28-75;8:45 am]

[Release No. 11756]

SECURITIES INDUSTRY AUTOMATION CORP.

Application for Registration as a Securities Information Processor

OCTOBER 21, 1975.

Notice is hereby given that, pursuant to Section 11A(b)(2) of the Securities Exchange Act of 1934, (the "Act") the Securities Industry Automation Corporation ("SIAC") filed an application on October 20, 1975 with the Securities and Exchange Commission (the "Commission") for registration as a securities information processor.

The Commission is required under new Section 11A(b)(3) of the Act to find, before granting registration, that an applicant "is so organized, and has the capacity, to be able to assure the prompt, accurate, and reliable performance of its functions as a securities information processor, * * * and, insofar as it is acting as an exclusive processor, operate fairly and efficiently * * *." Additionally, Section 11A(b)(3) of the Act provides that the Commission shall, upon the filing of an application for registration pursuant to Section 11A(b)(2) of the Act, publish notice of the filing and afford interested persons an opportunity to submit written data, views and arguments concerning such application. A copy of the SIAC application is available for public inspection in the Commission's

Public Reference Room at 1100 L Street, NW., Washington, D.C. 20549.

All persons interested in submitting written data, views and arguments concerning SIAC's application should submit them in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 not later than November 21, 1975. All communications should refer to File No. S7-595 and will be available for public inspection in the Commission's Public Reference Room.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-28971 Filed 10-28-75;8:45 am]

[Release No. 34-11754; File No. SR-NYSE-75-5]

NEW YORK STOCK EXCHANGE, INC.

Filing of Proposed Rule Change and Order Approving Proposed Rule Change

I. Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") as amended by Pub. L. No. 94-29, § 16 (June 4, 1975), notice is hereby given that on October 20, 1975, the New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, New York, 10005, a national securities exchange registered with the Commission pursuant to Section 6 of the Act, filed with the Commission copies of a proposed rule change. The proposed rule change would amend NYSE Rule 124 which establishes procedures for the execution of odd-lot orders and requires the charging of an odd-lot differential, the amount of which is fixed by Rule 125. Rule 125 would be repealed in its entirety.

II. Publication of notice of the proposed rule change is expected to be made in the FEDERAL REGISTER during the week of October 27, 1975. Interested persons are invited to submit written data, views and arguments concerning the proposed rule change. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-NYSE-75-5.

III. The Commission is directed under Section 19(b)(2) to the Act to approve a proposed rule change if it finds it to be consistent with the requirements of the Act and rules thereunder applicable to such organization. The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges including the requirements of Section 6 and the rules and regulations thereunder. In particular, under Section 6(e) of the Act, exchanges will be prohibited, effective May 1, 1976, from imposing any schedule or fixing rates of commissions, allowances, discounts, or other fees to be charged by its members for acting as an odd-lot dealer. Nothing in the Act prohibits an exchange from taking action, such as that being taken currently by the NYSE, in advance of May 1, 1976.

IV. Further, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing thereof. Eliminating the requirement that a prescribed odd-lot differential be charged will promote competition in odd-lot trading; NYSE members engaged, or who wish to engage, in odd-lot trading on the exchange will be able to compete on the basis of charges for odd-lot business.

A firm engaged in the odd-lot business on the NYSE and which is required to charge the fixed odd-lot differential would be at a competitive disadvantage with respect to firms which execute odd-lot transactions off the exchange and are not required to charge the odd-lot differential. Immediate removal of the requirement that a prescribed odd-lot differential be charged on odd-lot orders executed on the exchange will allow exchange members to begin competing, on an equal basis, with firms which may begin to execute odd-lot orders off the exchange without charging an odd-lot differential.

For the foregoing reasons, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication of notice of filing thereof.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission by the Division of market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 20, 1975.

[FR Doc.75-28970 Filed 10-28-75;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1189; Amdt. No. 1]

ALABAMA

Declaration of Disaster Area

In addition to previously declared counties (See 40 FR 48556) St. Clair, and adjacent counties within the State of Alabama constitute a disaster area because of damage resulting from high winds, tornadoes, heavy rains, and flooding beginning about September 22, 1975. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on December 8, 1975, and for economic injury until the close of business on July 8, 1976 at:

Small Business Administration, District Office, 908 South 20th Street, Birmingham, Alabama 35205.

or other locally announced locations.

Dated: October 14, 1975.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.75-28914 Filed 10-28-75;8:45 am]

[Declaration of Disaster Loan Area No. 1189, Amdt. No. 2]

ALABAMA

Declaration of Disaster Area

The above numbered Declaration (See 40 FR 48556) and Amendment No. 1 this page are amended by adding Crenshaw, Henry and adjacent counties within the State of Alabama, and the time for filing applications is extended to December 9, 1975, for physical damage and July 12, 1976, for economic injury.

Dated: October 16, 1975.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.75-28915 Filed 10-28-75;8:45 am]

[Proposed License No. 09/09-0184]

GROCERS CAPITAL CO.

Application for a License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the SBA Regulations (13 CFR 107.102(1975)) by Grocers Capital Company, 6625 Washington Boulevard, Los Angeles, California 90040, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (Act), as amended (15 U.S.C. 661 et seq.).

The proposed officers, directors and shareholder are:

Randolph H. Price, President, Director, 537 Dunnegan Place, Laguna Beach, California 92651.

William O. Christy, Vice President, Secretary-Treasurer, Director, 4200 Ironwood, Seal Beach, California 90740.

Kenneth Lee Stapp, Director, 1130 Paloma Drive, Arcadia, California 91006.

Grocers Equipment Company, 100%, 6625 Washington Boulevard, Los Angeles, California 90040.

The company's initial private capitalization will be $205,000.

Grocers Equipment Company (GEC) is 100 percent owned by Certified Grocers of California, Ltd. (Certified), 2601 South Eastern Avenue, Los Angeles, California 90040, which is a wholesale grocery company operated on a cooperative basis. GEC was organized as a service subsidiary in order to provide members of Certified and Spartan Grocers, Inc. (Spartan), 4408 Bandini Blvd., Los Angeles, California 90023, a subsidiary of Certified, with consultation and assistance.

It is anticipated that the applicant will be offering assistance to non-members as well as members of the cooperative. Historically, Certified and Spartan have not required members to participate in any division. Participation in any division or service is voluntary. The members of Certified and Spartan, through their ownership of the cooperative, are the beneficial owners of 100 percent of the applicant's common stock. As such, they would be considered an "affiliated group" beneficially owning 10 percent or more of the applicant's common stock.

Therefore, the proposed financings to member retail grocers would be subject to the provisions of Section 107.1004(b)(1) of the Regulations.

It is the intent of SBA to grant the applicant a partial exemption from the restrictions of § 107.1004(b)(1) of the Regulations in order to make it possible to finance, and thus help advance, the best interests of the small retail grocers. The partial exemption would extend only to the financial assistance provided to the small retail grocers who are members of the cooperative. Any financial assistance to other associates of the licensee would not be exempt and would fall within the purview of § 107.1004 of the regulations.

Matters involved in SBA's consideration of the application, in view of the particular circumstances involved, include (1) the general business reputation and character of the proposed owner and management, (2) the reasonable prospects for successful operation of the new company under such management (including adequate profitability and financial soundness, in accordance with the Act and Regulations), and (3) whether the proposed licensing action would be in furtherance of the purposes of the Act.

Notice is further given that any person may, not late than November 13, 1975, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Los Angeles, California.

Dated: October 17, 1975.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.75-28913 Filed 10-28-75;8:45 am]

[Declaration of Disaster Loan Area #1190 Amdt. #1]

MARYLAND

Declaration of Disaster Area

The above numbered Declaration (See 40 FR 48409) is amended by adding Calvert, Kent, Queen Anne's, St. Mary's, Talbot and adjacent counties within the State of Maryland, and the time for filing applications is extended to December 9, 1975, for physical damage and July 12, 1976, for economic injury.

Dated: October 16, 1975.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.75-28916 Filed 10-28-75;8:45 am]

PITTSBURGH DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Pittsburgh District Advisory Council will hold a public meeting at 10 a.m., Monday, November 17, 1975, at the Second Floor Ballroom, Chatham Center, Pittsburgh, Pennsylvania, to discuss such business as may be presented by members, staff of the Small Business Administration, and others present.

For further information, write or call Jack C. Forbes, 1401 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222, (412) 644-2784.

Dated: October 17, 1975.

ANTHONY S. STASIO,
Chief Counsel for Advocacy, Small Business Administration.

[FR Doc.75-28912 Filed 10-28-75;8:45 am]

DEPARTMENT OF LABOR

Office of the Secretary

[TA-W-127]

GENERAL ELECTRIC CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-127: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 25, 1975 in response to a worker petition received on August 25, 1975 which was filed by the International Union of Electrical, Radio and Machine Workers on behalf of workers formerly producing monochrome television picture tubes and cathode ray mounts at the Electronics Park plant of the General Electric Company.

The notice of investigation was published in the FEDERAL REGISTER (40 FR 42065) on September 10, 1975. No public hearing was requested and none was held.

Section 223(b)(2) of the Trade Act of 1974 states that a certification under this section shall not apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm occurred more than six months before the effective date, April 3, 1975, of Chapter 2, Title II of the Trade Act of 1974. All workers engaged in employment related to the production of monochrome television picture tubes were separated on or before December 1970.

All workers engaged in employment related to the production of cathode ray tube mounts were separated on or before December 1972.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that the total or partial separations of the workers engaged in employment related to the production of monochrome picture tubes and cathode ray tube mounts at the television components products section of the Electronics Park plant of General Electric, Syracuse, New York are precluded from program benefits by Section 223(b)(2) of Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of October 1975.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary for Trade and Adjustment Policy.

[FR Doc.75-29020 Filed 10-28-75;8:45 am]

[TA-W-245]

OTTO B. MAY CO., INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On October 20, 1975, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Otto B. May Company, Incorporated, Newark, New Jersey, a subsidiary of Cone Mills Corporation, Greensboro, North Carolina (TA-W-245). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with vat and dispersed dyes produced by Otto B. May Company, Incorporated or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, on or before November 10, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of October 1975.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.75-29018 Filed 10-28-75;8:45 am]

[TA-W-259]

ROB-SCOT KNITTING MILLS

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On October 20, 1975, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Knit Goods Union on behalf of the workers and former workers of Rob-Scot Knitting Mills, Philadelphia, Pennsylvania a division of Thurman Manufacturing Company, Philadelphia, Pennsylvania (TA-W-259). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's and junior sweaters and tops produced by Rob-Scot Knitting Mills or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales of production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number of proportion of the workers of such firm or subdivision. The investigation will further relate, an appropriate, to the determination of the date on which total or partial separations, began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, on or before November 10, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of October 1975.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.75-20919 Filed 10-28-75;8:45 am]

Office of the Secretary

[TA-W-257]

BERGMAN TOOL MANUFACTURING CO., INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On October 20, 1975, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Bergman Tool Manufacturing Company, Incorporated, Buffalo, New York (TA-W-257).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with battery service tools produced by Bergman Tool Manufacturing Company, Incorporated or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 10, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of October 1975.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.75-29017 Filed 10-28-75;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 896]

ASSIGNMENT OF HEARINGS

OCTOBER 23, 1975.

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.

MC 60157 Sub 23, C. A. White Trucking Company; MC 72243 Sub 50, The Aetna Freight Lines, Inc.; MC 73165 Sub 361, Eagle Motor Lines, Inc.; MC 74321 Sub 111, B. F. Walker, Inc.; MC 83835 Sub 121, Wales Transportation, Inc.; MC 88380 Sub 19, Reb Transportation, Inc.; MC 97068 Sub 15, H. S. Anderson Trucking Company; MC 100666 Sub 298, Melton Truck Lines, Inc.; MC 106497 Sub 118, Parkhill Truck Company; MC 107993 Sub 38, J. J. Willis Trucking Company; MC 113459 Sub 97, H. J. Jefferies Truck Line, Inc.; MC 113528 Sub 25, Mercury Freight Lines, Inc.; MC 115603 Sub 12, Turner Bros. Trucking Company, Inc.; MC 119700 Sub 28, Steel Haulers, Inc.; MC 119908 Sub 28, Western Lines, Inc.; MC 120257 Sub 24, K. L. Breeden & Sons, Inc.; MC 123407 Sub 243, Sawyer Transport, Inc. and MC 138104 Sub 22, Moore Transportation Co., Inc., now being assigned continued hearing January 7, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. AB 26 Sub 4, Southern Railway Company Abandonment Between Williamson and Robert, In Pike Lamar, Upson, Monroe and Crawford Counties, Georgia now being assigned January 15, 1976 (2 days), at Griffin, Ga.; in a hearing room to be later designated.

MC 140389 Sub 2, Osborn Transportation, Inc., now being assigned January 19, 1976 (1 week), at Atlanta, Ga.; in a hearing room to be later designated.

MC 119789 Sub 252, Caravan Refrigerated Cargo, Inc., continued to October 28, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 105501 Sub 13, Terminal Warehouse Company, now assigned October 29, 1975, at St. Paul, Minnesota, is cancelled and application is dismissed.

MC 61592 Sub 354, Jenkins Truck Lines, Inc., now being assigned January 12, 1976 (2 days), at Seattle, Washington, in a hearing room to be designated later.

MC 115904 Sub 37, Louis Grover Reentitled Grover Trucking Co., A Corporation, now being assigned January 14, 1976 (3 days), at Seattle, Washington, in a hearing room to be designated later.

MC 141001, B. & M Trucking, Inc., now being assigned January 19, 1976 (2 days), at Seattle, Washington, in a hearing room to be designated later.

MC 139527 Sub 2, M.E.M Enterprises, Inc., now being assigned for Continued hearing January 21, 1976 (3 days), at Seattle, Wash., in a hearing room to be designated later.

MC-F-12521, Ryder Truck Lines, Inc.—Purchase—Transamerican Freight Lines, Inc., now being assigned January 6, 1976 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 128383 Sub 57, Pinto Trucking Service, Inc., now being assigned January 8, 1976 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 140652, S. C. Hutchison, Co., Inc., now being assigned January 8, 1976 at the Offices of the Interstate Commerce Commission, Washington, D.C.

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

[FR Doc.75-29037 Filed 10-28-75;8:45 am]

[Notice No. 105]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

OCTOBER 29, 1975.

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 November 29, 1975. 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-76074. By order of October 23, 1975, the Motor Carrier Board approved the transfer to Carlyle Moving & Storage Co., Inc., New York, N.Y., of Certificate No. MC 87230 issued April 3, 1943, to Reilly Storage Warehouse Corp., New York, N.Y., authorizing the transportation of household goods between specified points in New York, New Jersey and Connecticut. Alvin Altman, 1776 Broadway, New York, N.Y. 10019, Attorney for Applicants.

No. MC-FC-76079. By order of October 23, 1975, the Motor Carrier Board approved the transfer to Delp, Inc., Springdale, Arkansas, of Certificate No. MC 124408 Sub-No. 9, issued February 19, 1974, to Thompson Bros., Inc., Toronto, South Dakota, authorizing the transportation of frozen potato, products from Clark, S. Dak., to points in 30 States. Tom B. Kretsinger, Kretsinger & Sapp, Suite 910 Fairfax Bldg., 101 W. 11th St., Kansas City, Mo. 64105, Attorney for Applicants.

No. MC-FC-76109. By order of October 23, 1975, the Motor Carrier Board approved the transfer to Mola Trucking, Inc., doing business as "Mola Trucking" and "Mitchko Trucking", Mountain Lakes, New Jersey, of Certificates No. MC 30114 and No. MC 30114 (Sub-No. 5), issued June 16, 1964 and September 22, 1972, respectively, to Mitchko Trucking, Inc., authorizing the transportation of general commodities and certain specified commodities, from, to and between points in New Jersey, New York, Pennsylvania, Delaware and Maryland. Bert Collins, Suite 6193—5 World Trade Center, New York, N.Y. 10048. Representative of Applicants.

No. MC-FC-76124. By order entered October 23, 1975, the Motor Carrier Board approved the transfer to R J L Corporation, Shelburn, Ind., of the operating rights set forth in Permit No. MC 136934 Sub 1, issued August 13, 1973, to Malcolm L. Leggitt, Lawrenceville, Ill., authorizing the transportation of corrugated plastic drainage tubing from Lawrenceville, Ill., to points in Missouri, Kansas, Arkansas, Tennessee, Kentucky, Indiana, Ohio, Iowa, Minnesota, Wisconsin, Michigan, Pennsylvania, and New York; and from the plant sites of Certain-Teed/Daymond Co., located at points in the destination States cited above to Lawrenceville, Ill.; also, plastic coupling T's, reducers, and caps, adapters, and elbows used in the distribution of and installation of corrugated plastic drainage tubing, from the destination States cited above to Lawrenceville, Ill., these operations restricted to service performed under a continuing contract with Certain-Teed/Daymond Co. of Ann Arbor, Mich. Donald W. Smith, Esq., Suite 2465—One Indiana Square, Indianapolis, Indiana 46204, attorney for applicant.

No. MC-FC-76142. By order entered October 23, 1975, the Motor Carrier Board approved the transfer to John Grant Everett, doing business as E. & P. Truck Service, McCrory, Ark., of the operating rights set forth in Certificate No. MC 124158, issued March 24, 1966, to Bornhoft Truck Service, Inc., Harrisburg, Ark., authorizing the transportation of potash and soybean meal, from and to points in New Mexico, Arkansas, Texas, Mississippi, and Tennessee. John C. Everett, 140 East Buchanan, Prairie Grove, Ark. 72753, attorney for applicants.

No. MC-FS-76146. By order entered October 23, 1975, the Motor Carrier Board approved the transfer to Swabco, Inc., Dayton, Tex., of the operating rights set forth in Certificate of Registration No. MC 120571 (Sub-No. 1), issued October 11, 1973, to Dixie Vacuum Tanks, Inc., Beaumont, Tex., evidencing a right to engage in transportation in interstate or foreign commerce of specified commodities, between points in Texas. Austin L. Hatchell, 1102 Perry Brooks Bldg., Austin, Texas 78701, attorney for applicants.

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

[FR Doc.75-29038 Filed 10-28-75;8:45 am]

[Notice No. 122]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 23, 1975.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR section 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

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.

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 the I.C.C. Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 30446 (Sub-No. 8TA), filed October 14, 1975. Applicant: BRUCE JOHNSON TRUCKING COMPANY, INC., 3408 North Graham St., P.O. Box 5647, Charlotte, N.C. 28225. Applicant's representative: Charles Ephraim, 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: (1) *Plastic pipe and fittings*, from Bakers, N.C., and Charlotte, N.C., to points in Georgia; and (2) *Cast iron pipe and fittings*, from Charlotte, N.C., to points in Georgia, located south and west of a line beginning at Savannah, Ga., and extending along U.S. Highway 80 to Macon, Ga., thence along U.S. Highway 129 to Athens, Ga., and thence along U.S. Highway 29 to the Georgia-South Carolina State line, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Charlotte Pipe and Foundry Company, 2109 Randolph Road, Charlotte, N.C. 28204. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Bldg., Charlotte, N.C. 28205.

No. MC 47010 (Sub-No. 7TA), filed October 8, 1975. Applicant: BEERY

TRANSPORT, INC., 5315 N. W. St. Hellens Road, Portland, Oreg. 97210. Applicant's representative: Nick I. Goyak, 555 Benjamin Franklin Plaza, One Southwest Columbia, Portland, Oreg. 97258. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cans, can ends, tin plate, cannery supplies, and machinery*, between Salem, Oreg., on the one hand, and Toppenish and Yakima, Wash., on the other, for the account of Del Monte Corporation, under a continuing contract with Del Monte Corporation, for 180 days. Supporting shipper: Del Monte Corporation, 2001 Del Monte Way, Vancouver, Wash. 98660. Send protests to: W. J. Huetig, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 52579 (Sub-No. 145TA), filed October 8, 1975. Applicant: GILBERT CARRIER CORP., 1 Gilbert Drive, Secaucus, N.J. 07094. Applicant's representative: Fred L. Cardascia, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, loose, on hangers, from Tupelo, Miss., to points in California, Delaware, Florida, Georgia, Illinois, Indiana, Michigan, New Jersey, New York, New York Commercial Zone, Ohio, and Texas; also from Leitchfield and Morgantown, Ky., to Tupelo, Miss., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: General Clothing Company, 1255 "F" St., San Diego, Calif. 92101. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 106674 (Sub-No. 172TA), filed October 14, 1975. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Jerry L. Johnson, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, in bulk, in dump vehicles; (1) from Danville, Ill., to point in Indiana and (2) from Vincennes, Ind., to points in Illinois, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Triple T Grain & Fertilzer, Inc., R.R. #1, Vincennes, Ind. 47591. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations: 345 West Wayne St., Room 204, Fort Wayne, Ind. 46802.

No. MC 107295 (Sub-No. 781TA), filed October 10, 1975. Applicant: PRE-FAB TRANSIT CO., 100 South Main St., Farmer City, Ill. 61842. Applicant's representative: Duane Zehr (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asbestos building panels, siding and roofing*, from Nashua, N.H., to points in Iowa and Nebraska, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Carl E. Arthur, Manager of Architectural Products, Stetson Building Products, 510 S.W. Ninth, Des Moines, Iowa 50309. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 214B, Springfield, Ill. 62705.

No. MC 109443 (Sub-No. 20TA), filed October 9, 1975. Applicant: SEABOARD TANK LINES, INC., Monahan Ave., Dunmore, Pa. 18512. Applicant's representative: Kenneth R. Davis, 121 S. Main St., Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gasoline*, in bulk, from Paulsboro, N.J., to Philadelphia and Lester, Pa., and Stanton, Del., for 150 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Alert Oil Company, 3411 Silverside Road, Wilmington, Del. 19810. Send protests to: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 314 U.S. Post Office Bldg., Scranton, Pa. 18503.

No. MC 115994 (Sub-No. 13TA), filed October 14, 1975. Applicant: FIDERAK TRUCKING, INC., Lafayette St., R. D. 2, Tamaqua, Pa. 18252. Applicant's representative: Paul B. Kemmerer, 1620 N. 19th St., Allentown, Pa. 18104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Coal* from points in Luzerne and Schuylkill Counties, Pa., to points in Massachusetts and Rhode Island for 180 days. Supporting shipper: Centralia Coal Sales Company, Inc. 1 East Wynnewood Road, Wynnewood, Pa. 19096. Send protests to: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 314 U.S. Post Office Bldg., Scranton, Pa. 18503.

No. MC 116400 (Sub-No. 5TA), filed October 8, 1975. Applicant: LAWRENCE TRANSFER & STORAGE CORPORATION, 2727 Hollins Road, N.E., P.O. Box 13025, Roanoke, Va. 24030. Applicant's representative: Stanley I. Goldman, 1700 K St., N.W., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Equipment, materials and supplies; locomotive, rail car and equipment parts; tools; and intra-company records and correspondence*, (1) between the facilities of the Norfolk and Western Railway Company at or near Roanoke, Va.; Brewster, Ohio; Bellevue, Ohio; and Decatur, Ill.; (2) between the facilities of the Norfolk and Western Railway Company at or near Decatur, Ill., on the one hand, and, on the other, St. Louis and Hazelwood, Mo.; (3) between the facilities of the Norfolk and Western Railway Company at or near Decatur, Chicago, and Jacksonville, Ill.; St. Louis and Moberly, Mo.; and Peru and Ft. Wayne, Ind.; (4) between the facilities of the Norfolk and Western Railway Company at or near Roanoke, Va., on the one hand, and, on the other, Bluefield, W. Va.; Louisville, Ky.; and Portsmouth, Ohio; (B) *Locomotive parts and accessories*, between the facilities of the Norfolk and Western Railway Company at or near Roanoke, Va., on the one hand, and, on the other, (a) the facilities of the General Motors Corp., at or near Bedford, Pa.; (b) the facilities of the Chromium Corporation of America at or near Cleveland, Ohio, and (c) the facilities of the General Electric Co., at or near Erie, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Norfolk and Western Railway Company, 8 North Jefferson St., Roanoke, Va. 24042. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 215 Campbell Ave., S.W., Roanoke, Va. 24011.

No. MC 120364 (Sub-No. 6TA), filed October 14, 1975. Applicant: A & B FREIGHT LINE, INC., 2800 Falund St., Rockford, Ill. 61109. Applicant's representative: Robert M. Kaske (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, dangerous articles, commodities in bulk, household goods as defined by the Commission, commodities requiring special equipment, frozen foods, motor vehicles, and farm equipment and supplies), (1) between points in that part of Illinois on or bounded by a line beginning at the Illinois-Wisconsin State line and extending southerly on Illinois Highway 78 to its junction with Illinois Highway 88, thence southerly on Illinois Highway 88 to its junction with Illinois Highway 92, thence easterly on Illinois Highway 92 to its junction with U.S. Highway 34, thence easterly on U.S. Highway 34 to its junction with Illinois Highway 59, thence northerly on Illinois Highway 59 to its junction with Illinois Highway 83, thence northerly on Illinois Highway 83 to the Illinois-Wisconsin State line, thence west on the Illinois-Wisconsin State line to the place of beginning; on the one hand, and, on the other, Chicago, Ill., restricted to interline service only, applicant intends to tack its existing authority with MC 120364 at Rockford, Ill., and to interline with carriers at Chicago, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 37 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Patricia A. Roscor, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 124078 (Sub-No. 664TA), filed October 8, 1975. Applicant: SCHWER-

MAN TRUCKING COMPANY, 611 South 28th St., P.O. Box 1601, Milwaukee, Wis. 53215. 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: *Cinders*, in bulk, from Kaukauna, Wis., to West Chicago, Ill., for 180 days. Supporting shipper: Thilmany Pulp & Paper Company, Thilmany Road, Kaukauna, Wis. 54130. Send protests to: John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 125023 (Sub-No. 29TA), filed October 9, 1975. Applicant: SIGMA-4 EXPRESS, INC., 3825 Beech Ave., P.O. Box 9117, Erie, Pa. 16504. Applicant's representative: Richard G. McCurdy, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from Utica, N.Y., to Painesville, Ohio and Toledo, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Allen Products of Ohio, Condon Brothers Distributing Co., Box 732, Painesville, Ohio 44077, and Seaway Beverage Co., 3917 Imlay St., Toledo, Ohio 43603. Send protests to: John J. England, District Supervisor, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 129301 (Sub-No. 2TA), filed October 9, 1975. Applicant: ENGLISH & SONS CORPORATION, 412 Kings Highway, Thorofare, N.J. 08086. Applicant's representative: James H. Sweeney, P.O. Box 684, Woodbury, N.J. 08096. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Room fresheners*, from Camden, N.J., to Chicago, Peoria, Melrose Park, Rosemont, North Lakes, and Lansing Ill.; Detroit, Mich.; points in the states of Connecticut, Delaware, the District of Columbia, Maryland, Massachusetts, New Hampshire, New York, Ohio, Pennsylvania, Rhode Island and Virginia, under a continuing contract with Certified Chemicals Incorporated, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Certified Chemicals Incorporated, Jefferson & Master Sts., Camden, N.J. 08104. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 East State St., Room 204, Trenton, N.J. 08608.

No. MC 134063 (Sub-No. 11TA), filed October 9, 1975. Applicant: MIDWEST TRANSPORTATION COMPANY, 2802 Avenue B, Council Bluffs, Iowa 51501. Applicant's representative: Frank R. Chullino, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages* (except malt beverages) in containers; *and nonalcoholic beverages* (in containers only) when moving in the same vehicle, at the same time with alcoholic beverages, from points in Illinois, Kentucky, New Jersey, New York, Missouri, Ohio, Pennsylvania, Maryland, Michigan; and Hartford, Conn.; Lawrenceburg, Ind.; Boston, Mass.; and Lynchburg and Tullahoma, Tenn., to Minneapolis and St. Paul, Minn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: (1) McKesson Wine & Spirits Company, Kenneth L. Smith, General Manager, 2309 University Ave., St. Paul, Minn. 55114. (2) Old Peoria, M. H. Maisel, Secretary, 701 Stinson Blvd., Minneapolis, Minn. 55413. (3) Ed. Phillips & Sons Co., Leon C. Marquis, Traffic Manager, 2345 Kennedy St., N.E., Minneapolis, Minn. 55413. (4) Distillers Distributing Co., Michael G. Galinson, Director of Purchasing, 475 N. Prior, St. Paul, Minn. 55104. Send protests to: Carroll Russell, District Supervisor, Suite 620, 110 North 14th St., Omaha, Nebr. 68102.

No. MC 135283 (Sub-No. 13TA), filed October 14, 1975. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., Box 1665, East Highway 30, Grand Island, Nebr. 68801. Applicant's representative: Gailyn L. Larsen, Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles*, from Alda, Nebr., to Zanesville, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Charles R. Beltinck, Office Manager, Leon Chemical & Plastics, Division of United States Industries, Box 1728, Grand Island, Nebr. 68801. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Bldg., & Courthouse, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 136464 (Sub-No. 15TA), filed October 8, 1975. Applicant: CAROLINA WESTERN EXPRESS, INC., 650 Eastwood Drive, P.O. Box 3961, Gastonia, N.C. 28052. Applicant's representative: Eric Meierhoefer, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A)(1) *Zippers, thread, binding, braid, lace, tape, webbing, and ribbon*; (2) *hand and/or machine sewing aids, and materials and supplies* used in the manufacture and sale of zippers, thread, binding, braid, lace, tape, webbing, and ribbon, when moving in mixed loads with those commodities in (1) above, between the plantsites and warehouse facilities used by Talon Division of Textron located at or near Stanley, N.C., and Mecklenburg County, N.C.; Morton, Miss.; Dallas, Tex.; Port Hueneme, Calif., and Los Angeles, Calif. Restriction: Service to and from Dallas, Tex., restricted to partial pickups and/or delivery in conjunction with shipments originating at or destined to any other Talon facility or warehouse. Restriction: Service under this permit to be restricted to transportation to be performed under a continuing contract with Talon Division of Textron, Inc., of Meadville, Pa. Note: Portion of this application duplicates authority already held by Carolina-Western under existing Permit MC 136464 (Sub-No. 2) and under temporary authority in MC 136464 (Sub-No. 5TA), for 180 days. Supporting shipper: Talon Division of Textron, Inc., 626 Arch St., Meadville, Pa. 16334. Send protests to: Terrrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Bldg., Charlotte, N.C. 28205.

No. MC 138157 (Sub-No. 22TA), filed October 9, 1975. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., doing business as SOUTHWEST MOTOR FREIGHT, 4284 Mission Blvd., Pomona, Calif. 19769. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glassware*, from the plantsite and facilities of Owens-Illinois, Inc., at or near Streator, Ill., and from the plantsite and facilities of Kerr Glass Manufacturing Corp., at or near Dunkirk, Ind., to the facilities of Cutter Laboratories at or near Chattanooga, Tenn., for 180 days. Supporting shipper: Cutter Laboratories, Inc., Fourth and Parker Streets, Berkeley, Calif. 94710. Send protests to: Mildred I. Price, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 138398 (Sub-No. 13TA), filed October 10, 1975. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, Mo. 65804. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tile*, from Cleveland, Miss., to points in Alabama, California, Florida, Georgia, Illinois, Maryland, Minnesota, Missouri, Kansas, North Carolina, South Carolina, Pennsylvania, Tennessee, Utah, the District of Columbia, Washington, New Mexico, and Oregon. (2) *Materials and supplies* (except in bulk, used in the manufacture of tile, from points in North Carolina, South Carolina, Illinois, Oklahoma, Tennessee, Alabama, Maryland, and Pennsylvania, to Cleveland, Miss., and (3) *Tile*, from Morrisville, Pa., to Cleveland, Miss., under a continuing contract with Robertson American of Mississippi, for 180 days. Supporting shipper: Robertson American of Mississippi, P.O. Box 1030, Cleveland, Miss. 38732. Send protests to: John V. Barry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 138398 (Sub-No. 14TA), filed October 10, 1975. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, Mo. 65804. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Earthenware*, from Jackson, Miss.,

to Albany, Sweet Springs, Sedalia, Clinton, and Hannibal, Mo., under a continuing contract or contracts with Rival Manufacturing Company, at Kansas City, Mo., for 180 days. Supporting shipper: Rival Manufacturing Company, 3600 Bennington, Kansas City, Mo. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 138820 (Sub-No. 5TA), filed October 14, 1975. Applicant: PATTONS, INC., 2300 Canyon Road, Ellensburg, Wash. 98926. Applicant's representative: Lawrence V. Smart, Jr., 419 NW., 23d Ave., Portland, Oreg. 97210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned foods*, from points in California, to points in Oregon and Washington, under a continuing contract with Roundup Co., a Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Roundup Co., 11016 East Jackson Ave., Spokane, Wash. 99206. Send protests to: W. J. Huetig, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 138910 (Sub-No. 1TA), filed October 14, 1975. Applicant: DAVID J. ANTHONY, doing business as, GLOWATSKY'S PIGGYBACK SERVICE, 650 South Carldon St., Allentown, Pa. 18103. Applicant's representative: Paul B. Kemmerer, 1620 19th St., Allentown, Pa. 18104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except cement, motor vehicles, commodities in bulk, and commodities that require special equipment), between Allentown, Pa., on the one hand, and, on the other, points in Chester, Luzerne, and Philadelphia Counties, Pa., and Mercer, Morris and Somerset Counties, N.J., restricted to traffic having a prior or subsequent movement by rail, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: East Penn Terminal Co., 140 Union St., Allentown, Pa. 18102. Lehigh Valley Railroad Company, 112 Pioneer St., Newark, N.J. 07114. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

No. MC 139600 (Sub-No. 6TA, filed October 8, 1975. Applicant: LA CRESTA, INC., doing business as, CALIFORNIA BULK EXPRESS, 414 N. Hale Ave., Escondido, Calif. 92025. Applicant's representative: Fred E. Caldwell, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Volcanic ash NOI: Clay NOI: Calcium Carbonate NOI: Bentonite; Saponite; Hectorite;* in bulk, bags or containers, from points in Nye County, Nev., (Imvite, Nev.), to points in California, Oregon, Washington, Arizona, New Mexico, Colorado, Texas, Oklahoma, Kansas, Utah, Wyoming, North Dakota, South Dakota and Idaho, for 180 days. Supporting shipper: Industrial Mineral Ventures, Inc., 5920 McIntyre St., Goldon, Colo. 80401. Send protests to: Mildred I. Price, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 139837 (Sub-No. 3TA), filed October 14, 1975. Applicant: K & I DISTRIBUTORS, INC., P.O. Box 29, New Haven, Ind. 46774. Applicant's representative: Robert W. Loser II, 1009 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise* dealt in by chain stores and mail-order department stores, (1) from Vincennes, Ind., to points in Indiana on and south of a line beginning at the point where the Indianapolis state boundary line extends easterly along U.S. Highway 36 to Indianapolis, Ind., thence along U.S. Highway 40 to the Indiana-Ohio state boundary line; and points in Kentucky on and west of U.S. Highway 431; (2) from Columbus, Ohio, to points in Ohio on and south of a line beginning at the point where the Indiana-Ohio state boundary line extends easterly along U.S. Highway 30 to its junction with U.S. Highway 30–N, thence along U.S. Highway 30–N to its junction with U.S. Highway 30, thence along U.S. Highway 30 to the Ohio-West Virginia state Boundary line; and that part of Kentucky on and east of Interstate 75, and (3) from Louisville, Ky., to points in that part of Ohio on and south of Interstate 70. Restriction: Restricted to a transportation service to be performed under a continuing contract with Amway Corporation, of Ada, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Amway Corporation, 7575 East Fulton Road, Ada, Mich. 49301. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne St., Room 204, Fort Wayne, Ind. 46802.

No. MC 141138 (Sub-No. 2TA), filed October 14, 1975. Applicant: STEVE SCHRANZ TRUCKING, INC., 350 Honeysuckle Lane, Belleville, Ill. 62221. Applicant's representative: John L. Schranz, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean meal*, in bulk, from Mexico, Mo., to the plantsite of ConAgra, Inc., at National City, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: G. W. Lutz, Traffic Manager, ConAgra, Inc., Eagle Park Road, National City, Ill. 62071. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

APPLICATION OF PASSENGERS

No. MC 138297 (Sub-No. 5TA), filed October 9, 1975. Applicant: CENTRAL FLORIDA COACH LINES, INC., P.O. Box 3844, Cocoa, Fla. 32922. Applicant's representative: Kenneth R. Davis, 121 S. Main St., Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at Bowling Green, Ohio; Manassas and Fredericksburg, Va.; Lexington, Ky.; Hazleton Airport, Hazleton, Pa., and extending to St. Augustine, Orlando and Cocoa Beach, Fla. Restriction: The authority under (1) above is restricted to transportation of passengers having an immediately prior movement in a passenger automobile tendered to carrier for transportation on separate automobile transporters pursuant to the authority set forth in part (2) hereof; (2) *Passenger's automobiles* in secondary movements in truckaway service, between the points set forth in (1) above. Restriction. The authority granted under (2) above is restricted to the transportation of automobiles tendered to carrier by those passengers moving pursuant to the authority set out in part (1) above. Supporting shippers: There are approximately 10 statements of support attached to the application, which may be examined at the Interstate Commerce Commission, in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: G. H. Fauss, Jr., District Supervisor, Interstate Commerce Commission, 400 West Bay St., Jacksonville, Fla. 32202.

By the Commission.

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

NOTE.—Applicant holds authority in MC 138297 (Sub-No. 3TA) to perform this service between White Haven and Hazleton Airport, Hazleton, Pa. and Cocoa Beach, Fla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority.

[FR Doc.75-29039 Filed 10-28-75;8:45 am]

[Docket No. 36141]

CORPORATE DISCLOSURE REGULATIONS

Notice of Informal Conference

The Interstate Commerce Commission will hold an informal conference in order to provide interested parties the opportunity to present their views and comments concerning the above-captioned proceeding.

Docket No. 36141, Corporate Disclosure Regulations, was served April 1, 1975 with a response date for filing statements of May 5, 1975. The Commission subsequently extended the time to file statements to June 20, 1975.

Many respondents contended the proposed regulations are ambiguous in many areas. Others pointed out terms which

they believe need clarification. Because of the many issues to be resolved, the Commission believes that clarification can be better obtained through participation of the parties in an informal conference.

Accordingly, an informal conference will be conducted by a Commission staff group beginning January 13, 1976 and will continue until all parties have been heard. The conference will be held at the Interstate Commerce Commission, 12th Street and Constitution Avenue, N.W., Washington, D.C. All parties interested in making a presentation must submit six copies of a position paper by December 1, 1975 containing an outline of their proposed oral comments. All parties submitting position papers by the prescribed date will be heard. Parties will have fifteen minutes to comment and to clarify staff questions. The staff will question participants to clarify participants' statements. No informal clarifying rulings will be made at the conference. The staff group will be presided over by the Director, Bureau of Accounts, and will consist of the following Commission personnel:

1. Director, Bureau of Accounts.
2. Assistant Director, Bureau of Accounts.
3. Members of the Accounting Board.
4. Legal representation.
5. Staff assistant.

Participants will receive a list of the names of all parties scheduled to speak containing the date and time of their presentation. A transcript of the conference will be made a part of the record in this proceeding. Respondents who have submitted a position paper to the Notice of Proposed Rulemaking, Docket No. 36141, Corporate Disclosure Regulations, should notify the Commission by letter if they wish to make oral comments. Letters and position papers should be sent to John A. Grady, Director, Bureau of Accounts, Interstate Commerce Commission, 12th and Constitution Avenue, Washington, D.C. 20423.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-29041 Filed 10-28-75;8:45 am]

[EX PARTE NO. 305-RE]

RECYCLABLE MATERIALS

Increased Freight Rates and Charges, 1975

OCTOBER 23, 1975.

At a Session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 22nd day of October 1975.

There being under consideration, the matter of rates and charges, and rules, regulations, and practices affecting such rates and charges, applicable on interstate or foreign commerce, of recyclable materials in railroad service, nationwide, as set forth in the following:

Tariff of increased rates and charges, X-305-RE, issued jointly by Traffic Executive Association—Eastern Railroads, Agent, its I.C.C. No. C-1072, and other designated agents; and Supplement 1 thereto;

or as same may be amended or reissued:

It appearing, That by said tariff publication scheduled to become effective October 11, 1975, the Nation's railroads except the Long Island Rail Road, proposed to increase rates and charges on recyclable commodities by 10 percent;

It further appearing, That the Commission's Suspension and Fourth Section Board, in Suspension Case No. 63740, declined to suspend the proposal; that, upon appeal, Division 2 affirmed the action of the Suspension and Fourth Section Board; and that, on October 11, 1975, the proposed schedules became effective;

It further appearing, That, by petition filed October 16, 1975, The National Association of Recycling Industries, Inc. (NARI), requests the issuance of a finding that this proceeding is one involving an issue of General Transportation Importance, and, upon such finding, to rule, among other things, that the proposed increase be suspended and investigated by the Commission;

It further appearing, That, under Rule 101(a)(4) of the Commission's General Rules of Practice, 49 CFR 1100, 101(a)(4), the filing of GTI petitions is permitted only in proceedings which have involved "the taking of evidence at oral hearing or by modified procedure," and that cases disposed of at the suspension level do not involve "the taking of evidence;" and that, as above indicated, the rates at issue have become effective and cannot be suspended;

It further appearing, That, in view of the magnitude of the increase proposed, the depressed financial condition of the recycling industry in general, and environmental questions which have been raised, there is reason to institute an investigation to determine whether the said schedules result in rates and charges, rules, regulations and practices that are unjust and unreasonable in violation of the Interstate Commerce Act:

Wherefore:

It is ordered, That the petition of NARI, filed October 16, 1975, be, and it is hereby, denied.

It is further ordered, That an investigation be, and it is hereby, instituted upon the Commission's own motion, into and concerning the lawfulness of the rates, charges, rules, regulations and practices contained in the above-described schedules, with a view to making such findings and orders in the premise as the facts and circumstances may warrant.

It is further ordered, That the investigation in this proceeding shall not be confined to matters and issues hereinbefore stated as the reason for instituting this investigation, but shall include all matters and issues with respect to the lawfulness of the said rates, charges, rules, regulations and practices under the Interstate Commerce Act.

It is further ordered, That the Commission's Bureau of Enforcement be, and it is hereby, directed to participate in this proceeding for the purpose of developing the record.

It is further ordered, That the carriers parties to the schedules named herein be, and they are hereby, made respondents to this proceeding; that a copy of this order be served upon said respondents; and that a notice of this proceeding be given to the public by posting a copy of this order in the office of the Secretary of the Commission.

And it is further ordered, That, pursuant to the provisions of section 15(7) of the Interstate Commerce Act, the respondents be, and they are hereby, ordered, pending a final decision in this proceeding, to keep accurate account in detail of all amounts received by reason of the increased rates and charges under investigation herein, specifying by whom and in whose behalf such amounts are paid, so that refund may be ordered in the event that the rates and charges, or any portion thereof, are found not justified.

By the Commission, Division 2.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-29040 Filed 10-28-75;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

OCTOBER 23, 1975.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating aid and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before November 10, 1975. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 61825 (Sub E218), filed May 13, 1974. Applicant: STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Louisiana on and bounded by a line beginning at the Mississippi-Louisiana State line and extending west along Louisiana Highway 60 to junction Louisiana Highway 437, thence south along Louisiana Highway 437 to junction Louisiana Highway 40, thence west along Louisiana Highway 40 to junction

Louisiana Highway 443, thence south along Louisiana Highway 443 to junction U.S. Highway 190, thence west along U.S. Highway 190 to junction Louisiana Highway 12, thence southwest along Louisiana Highway 12 to the Louisiana-Texas State line, thence north along the Louisiana-Texas State line to junction Louisiana Highway 8, thence northeast along Louisiana Highway 8 to junction Louisiana Highway 28, thence northeast along Louisiana Highway 28 to junction U.S. Highway 84, thence east along U.S. Highway 84 to the Louisiana-Mississippi State line, thence southeast along the Louisiana-Mississippi State line to point of beginning, to points in Delaware, District of Columbia, Maryland, New Jersey, New York, and those points in Ohio, Pennsylvania and West Virginia on and east of a line beginning at the Virginia-West Virginia State line and extending northeast along U.S. Highway 460 to junction Interstate Highway 77, thence north along Interstate Highway 77 to junction U.S. Highway 19, thence north along U.S. Highway 19 to junction U.S. Highway 250, thence northwest along U.S. Highway 250 to junction Ohio Highway 7, thence north along Ohio Highway 7 to junction U.S. Highway 30, thence east along U.S. Highway 30 to junction Pennsylvania Highway 168, thence north along Pennsylvania Highway 168 to junction Pennsylvania Highway 18, thence north along Pennsylvania Highway 18 to junction Pennsylvania Highway 158, thence northeast along Pennsylvania Highway 158 to junction U.S. Highway 19, thence north along U.S. Highway 19 to Lake Erie. The purpose of this filing is to eliminate the gateways of points in Smyth County and Martinsville, Va.

No. MC 61825 (Sub E219), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Louisiana on and south of a line beginning at the Mississippi-Louisiana State line and extending west along Louisiana Highway 60 to junction Louisiana Highway 437, thence south along Louisiana Highway 437 to junction Louisiana Highway 40, thence west along Louisiana Highway 40 to junction Louisiana Highway 443, thence south along Louisiana Highway 443 to junction U.S. Highway 190, thence west along U.S. Highway 190 to junction Louisiana Highway 12, thence southwest along Louisiana Highway 12 to the Louisiana-Texas State line, to points in Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, and those points in Ohio and West Virginia, on and east of a line beginning at the Virginia-West Virginia State line and extending north along Interstate Highway 77 to junction Ohio Highway 7, thence northeast along Ohio Highway 7 to junction Ohio Highway 45, thence north along Ohio Highway 45 to junction Ohio Highway 5, thence northeast along Ohio Highway 5 to junction Ohio Highway 7, thence north along Ohio Highway 7 to Conneaut, Ohio, and thence to Lake Erie. The purpose of this filing is to eliminate the gateways of points in Smyth County and Martinsville, Va.

No. MC 61825 (Sub-No. E220), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transportaing: *Furniture parts, materials, and supplies* used in the manufacture and distribution of new furniture and furniture parts (except in bulk), from points in Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, Wyoming, and points in North Dakota, South Dakota, and Nebraska on and west of a line beginning at the United States-Canada International Boundary line at the North Dakota-Minnesota State line and extending along the North Dakota-Minnesota State line to junction U.S. Highway 2, thence along U.S. Highway 2 to junction Interstate Highway 29, thence along Interestate Highway 29 to junction North Dakota Highway 15, thence along North Dakota Highway 15 to junction North Dakota Highway 18, thence along North Dakota Highway 18 to junction North Dakota Highway 200, thence along North Dakota Highway 200 to junction North Dakota Highway 32, thence along North Dakota Highway 32 to junction Interstate Highway 94, thence along Interstate Highway 94 to junction North Dakota Highway 1, thence along North Dakota Highway 1 to the Norht Dakota-South Dakota State line, thence along South Dakota Highway 37 to junction South Dakota Highway 10, thence along South Dakota Highway 10 to junction U.S. Highway 281, thence along U.S. Highway 281 to junction South Dakota Highway 26, thence along South Dakota Highway 26 to junction South Dakota Highway 45, thence along South Dakota Highway 45 to junction South Dakota Highway 44, thence along South Dakota Highway 44 to junction South Dakota Highway 50.

Thence along South Dakota Highway 50 to junction U.S. Highway 281, thence along U.S. Highway 281 to the South Dakota-Nebraska State line extending along U.S. Highway 281 to junction Nebraska Highway 92, thence along Nebraska Highway 92 to junction Nebraska Highway 14, thence along Nebraska Highway 14 to junction Nebraska Highway 66, thence along Nebraska Highway 66 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction U.S. Highway 77, thence along U.S. Highway 77 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to the Nebraska-Iowa State line, thence along the Nebraska-Iowa State line to the Nebraska-Missouri State line, thence along the Nebraska-Missouri State line to the Nebraska-Kansas State line, thence along the Nebraska-Kansas State line to points in Virginia north of a line beginning at the Maryland-Virginia State line and extending along Virginia Highway 655 to juction U.S. Highway 15, thence along U.S. Highway 15 to junction Virginia Highway 9, thence along Virginia Highway 9 to junction Virginia Highway 7, thence along Virginia Highway 7 to junction U.S. Highway 340, thence along U.S. Highway 340 to junction Virginia Highway 277, thence along Virginia Highway 277 to junction Virginia Highway 629, thence along Virginia Highway 629 to junction Virginia Highway 55, thence along Virginia Highway 55 to the Virginia-West Virginia State line. The purpose of this filing is to eliminate the gateways of Lynchburg and Smyth County, Va.

No. MC 61825 (Sub-No. E221), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts, materials, and supplies* used in the manufacture and distribution of new furniture and furniture parts (except in bulk), from points in Arizona, California, Colorado, Idaho, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, to those points in Maryland, Washington, D.C., Virginia, North Carolina, South Carolina, bounded by a line beginning on the Delaware-Maryland State line and extending along Interstate Highway 95 to junction Interstate Highway 495, thence along Interstate Highway 495 to junction Maryland Highway 193, thence along Maryland Highway 193 to junction Maryland Highway 586, thence along Maryland Highway 586 to junction Maryland Highway 28, thence along Maryland Highway 28 to junction Maryland Highway 107, thence along Maryland Highway 107 to the Maryland-Virginia State line, thence along the Maryland-Virginia State line to junction Virginia Highway 655, thence along Virginia Highway 655 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction Virgina Highway 7, thence along Virginia Highway 7 to junction U.S. Highway 340, thence along U.S. Highway 340 to junction Virgina Highway 277, thence along Virginia Highway 277 to junction Virginia Highway 628, thence along Virginia Highway 628 to junction Virginia Highway 55, thence along Virgina Highway 55 to the Virginia-West Virginia State line, thence along the Virginia-West Virginia State line to junction Virgina Highway 311, thence along Virginia Highway 311 to junction Virginia Highway 42, thence along Virginia Highway 42 to junction Virginia Highway 100, thence along Virginia Highway 100 to junction U.S. Highway 11.

Thence along U.S. Highway 11 to junction Virginia Highway 100, thence along Virginia Highway 100 to junction U.S.

Highway 58, thence along U.S. Highway 58 to junction Virginia Highway 89, thence along Virginia Highway 89 to the Virginia-North Carolina State line, thence along North Carolina Highway 89 to junction U.S. Highway 601, thence along U.S. Highway 601 to junction North Carolina Highway 268, thence along North Carolina Highway 268 to junction U.S. Highway 21, thence along U.S. Highway 21 to junction U.S. Highway 521, thence along U.S. Highway 521 to the North Carolina-South Carolina State line, thence along U.S. Highway 521 to junction South Carolina Highway 341, thence along South Carolina Highway 341 to junction South Carolina Highway 512, thence along South Carolina Highway 512 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction South Carolina Highway 527, thence along South Carolina Highway 527 to junction South Carolina Highway 41, thence along South Carolina Highway 41 to junction U.S. Highway 521, thence along U.S. Highway 521 to the Winyah Bay, thence along the Winyah Bay to the Atlantic Ocean, thence along the Atlantic Shore to the Delaware-Maryland State line, thence along the Delaware-Maryland State line to point of beginning, including points on highways specified. The purpose of this filing is to eliminate the gateways of Lynchburg and Smith County, Va.

No. MC 61825 (Sub-No. E222), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts, materials, and supplies* used in the manufacture and distribution of new furniture and furniture parts (except in bulk), from points in California, Idaho, Montana, Nevada, and Oregon and Washington on and west of a line beginning at the United States-Canada International Boundary line at Port of Whitlash, Mont., and extending along unnumbered highway to junction U.S. Highway 2, thence along U.S. Highway 2 to junction Montana Highway 223, thence along Montana Highway 223 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction Montana Highway 200, thence along Montana Highway 200 to junction U.S. Highway 12, thence along U.S. Highway 12 to the Montana-Idaho State line, thence along U.S. Highway 12 to junction Idaho Highway 13, thence along Idaho Highway 13 to junction U.S. Highway 95, thence along U.S. Highway 95 to the Idaho-Oregon State line, thence along U.S. Highway 95 to the Oregon-Nevada State line, thence along U.S. Highway 95 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Nevada-California State line, thence along U.S. Highway 50 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction California Highway 680, thence along California Highway 680 to junction California Highway 84, thence along California Highway 84 to the Pacific Ocean to points in North Carolina on and bounded by a line beginning at the Tennessee-North Carolina State line at U.S. Highway 441 and extending along U.S. Highway 441 to junction U.S. Highway 19.

Thence along U.S. Highway 19 to junction North Carolina Highway 28, thence along North Carolina Highway 28 to junction unnumbered highway near Stecoah, N.C., thence along numbered highway to junction U.S. Highway 129, thence along U.S. Highway 129 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction numbered highway near Nantahala, N.C., thence along unnumbered highway through Kyle and Aquone, N.C., and extending to junction U.S. Highway 64, thence along U.S. Highway 64 to junction U.S. Highway 23, thence along U.S. Highway 23 to the North Carolina-Georgia State line, thence along the North Carolina-Georgia State line to the North Carolina-South Carolina State line, thence along the North Carolina-South Carolina State line to U.S. Highway 276, thence along U.S. Highway 276 to junction U.S. Highway 19A, thence along U.S. Highway 19A to junction North Carolina Highway 209, thence along North Carolina Highway 209 to junction U.S. Highway 25, thence along U.S. Highway 25 to the North Carolina-Tennessee State line, thence along the North Carolina-Tennessee State line to the point of beginning. The purpose of this filing is to eliminate the gateways of Lynchburg and Smyth County, Va.

No. MC 61825 (Sub-No. E223), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts, materials*, and *supplies* used in the manufacture and distribution of new furniture and furniture parts (except in bulk), from points in Arizona, California, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming on and west of a line beginning at the United States-Canada International Boundary line at Montana Highway 233 and extending along Montana Highway 233 to junction Montana Highway 232, thence along Montana Highway 232 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction Montana Highway 230, thence along Montana Highway 230 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction Montana Highway 427, thence along Montana Highway 427 to junction U.S. Highway 89, thence along U.S. Highway 89 to the Wyoming-Montana State line, thence along U.S. Highway 89 to the Wyoming-Idaho State line, thence along U.S. Highway 89 to the Idaho-Utah State line, thence along U.S. Highway 89 to junction Interstate Highway 15, thence along Interstate Highway 15 to junction U.S. Highway 91, thence along U.S. Highway 91 to the Utah-Arizona State line, thence along U.S. Highway 91 to the Arizona-Nevada State line, thence along U.S. Highway 91 to junction U.S. Highway 95.

Thence along U.S. Highway 95 to the Nevada-California State line, thence along U.S. Highway 95 to the Arizona-California State line, thence along U.S. Highway 95 to the United States-Mexico International Boundary line to points in North Carolina on and bounded by a line beginning at the Tennessee-North Carolina State line extending along U.S. Highway 25 to junction North Carolina Highway 209, thence along North Carolina Highway 209 to junction U.S. Highway 19A, thence along U.S. Highway 19A to junction U.S. Highway 276, thence along U.S. Highway 276 to the North Carolina-South Carolina State line, thence along the North Carolina-South Carolina State line to junction U.S. Highway 221, thence along U.S. Highway 221 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction North Carolina Highway 18, thence along North Carolina Highway 18 to junction U.S. Highway 321, thence along U.S. Highway 321 to junction North Carolina Highway 268, thence along North Carolina Highway 268 to junction U.S. Highway 601, thence along U.S. Highway 601 to junction North Carolina Highway 89, thence along North Carolina Highway 89 to the Virginia-North Carolina State line, thence along the Virginia-North Carolina State line to the North Carolina-Tennessee State line, thence along the North Carolina-Tennessee State line to point of beginning. The purpose of this filing is to eliminate the gateways of Lynchburg and Smyth County, Va.

No. MC 61825 (Sub-No. E224), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts, materials*, and supplies used in the manufacture and distribution of new furniture and furniture parts (except in bulk), from points in Arizona, California, Colorado, Idaho, Montana, Nebraska, New Mexico, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming on and west of a line beginning at the United States-Canada International Boundary line at the North Dakota-Minnesota State line and extending along the North Dakota-Minnesota State line to the Minnesota-South Dakota State line, thence along the Minnesota-South Dakota State line to the South Dakota-Iowa State line, thence along the South Dakota-Iowa State line to the Nebraska-Iowa State line, thence along the Nebraska-Iowa State line to junction Interstate Highway 80, thence along Interstate Highway 80 to junction Nebraska Highway 15, thence along Nebraska Highway 15 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 81, thence

along U.S. Highway 81 to the Nebraska-Kansas State line, thence along the Nebraska-Kansas State line to the Kansas-Colorado State line, thence along the Kansas-Colorado State line to the Colorado-Oklahoma State line, thence along the Colorado-Oklahoma State line to the Oklahoma-New Mexico State line, thence along the Oklahoma-New Mexico State line to the New Mexico-Texas State line, thence along the New Mexico-Texas State line to junction U.S. Highway 70, thence along U.S. Highway 70 to junction New Mexico Highway 18, thence along New Mexico 18 to junction U.S. Highway 380, thence along U.S. Highway 380 to junction New Mexico Highway 172, thence along New Mexico Highway 172 to junction U.S. Highway 82.

Thence along U.S. Highway 82 to junction New Mexico Highway 31, thence along New Mexico Highway 31 to junction New Mexico Highway 360, thence along New Mexico Highway 360 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction U.S. Highway 285, thence along U.S. Highway 285 to the Texas-New Mexico State line, thence along the Texas-New Mexico State line to the United States-Mexico International Boundary line to points in North Carolina on and bounded by a line beginning at the North Carolina-South Carolina State line at U.S. Highway 321 and extending along U.S. Highway 321 to the south fork of the Catawba River near High Shoals, N.C., thence along the south fork of the Catawba River to junction North Carolina Highway 127, thence along North Carolina Highway 127 to junction U.S. Highway 321, thence along U.S. Highway 321 to junction U.S. Highway 321A, thence along U.S. Highway 321A to junction U.S. Highway 321, thence along U.S. Highway 321 to junction North Carolina Highway 268, thence along North Carolina Highway 268 to junction U.S. Highway 21, thence along U.S. Highway 21 to junction U.S. Highway 521, thence along U.S. Highway 521 to the North Carolina-South Carolina State line, thence along the North Carolina-South Carolina State line to point of beginning. The purpose of this filing is to eliminate the gateways of Lynchburg and Smyth County, Va.

No. MC 61825 (Sub-No E225), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts, materials, and supplies* used in the manufacture and distribution of new furniture and furniture parts (except in bulk), from points in Arizona, California, Colorado, Idaho, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming on and west of a line beginning at the United States-Canada International Boundary line at the North Dakota-Minnesota State line and extending along the North Dakota-Minnesota State line to junction U.S. Highway 2, thence along U.S. Highway 2 junction Interstate Highway 29, thence along Interstate Highway 29 to junction North Dakota Highway 200, thence along North Dakota Highway 200 to junction North Dakota Highway 20, thence along North Dakota Highway 20 to junction U.S. Highway 281, thence along U.S. Highway 281 to the North Dakota-South Dakota State line, thence along U.S. Highway 281 to junction South Dakota Highway 10, thence along South Dakota Highway 10 to junction South Dakota Highway 45, thence along South Dakota Highway 45 to junction South Dakota Highway 26, thence along South Dakota Highway 26 to junction South Dakota Highway 47, thence along South Dakota Highway 47 to junction South Dakota Highway 47W, thence along South Dakota Highway 47W to junction U.S. Highway 16, thence along U.S. Highway 16 to junction U.S. Highway 83, thence along U.S. Highway 83 to the South Dakota-Nebraska State line, thence along U.S. Highway 83 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to unnumbered highway near Lakeside, Nebr., to Oshkosh, Nebr., thence along unnumbered highway to junction Nebraska Highway 27, thence along Nebraska Highway 27 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Nebraska Highway 71, thence along Nebraska Highway 71 to the Nebraska-Colorado State line.

Thence along Colorado Highway 71 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Interstate Highway 25, thence along Interstate Highway 25 to junction Colorado Highway 115, thence along Colorado Highway 115 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Colorado Highway 17, thence along Colorado Highway 17 to junction U.S. Highway 285, thence along U.S. Highway 285 to the Colorado-New Mexico State line, thence along U.S. Highway 285 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction Colorado Highway 30, thence along Colorado Highway 30 to junction Colorado Highway 4, thence along Colorado Highway 4 to junction Colorado Highway 44, thence along Colorado Highway 44 to junction Interstate Highway 25, thence along Interstate Highway 25 to junction U.S. Highway 80, thence along U.S. Highway 80 to the New Mexico-Texas State line, thence along the New Mexico-Texas State line to the United States-Mexico International Boundary line to points in North Carolina on and bounded by a line beginning at the North Carolina-South Carolina State line at U.S. Highway 221 and extending along U.S. Highway 221 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction North Carolina Highway 18, thence along North Carolina Highway 18 to junction U.S. Highway 321A, thence along U.S. Highway 321A to junction U.S. Highway 321, thence along U.S. Highway 321 to junction North Carolina Highway 127, thence along North Carolina Highway 127 to the south fork of the Catawba River, thence along the south fork of the Catawba River to U.S. Highway 321 near High Shoals, N.C., thence along U.S. Highway 321 to the North Carolina-South Carolina State line, thence along the North Carolina-South Carolina State line to the point of beginning. The purpose of this filing is to eliminate the gateways of Smyth County and Lynchburg, Va.

No. MC 61825 (Sub-No. E226), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts, materials, and supplies* used in the manufacture and distribution of new furniture and furniture parts (except in bulk), from points in California, Idaho, Montana, Oregon, and Washington on, north, and west of a line beginning at the United States-Canada International Boundary line at Interstate Highway 15 and extending along Interstate Highway 15 to junction Montana Highway 215, thence along Montana Highway 215 to junction Montana Highway 213, thence along Montana Highway 213 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction U.S. Highway 93, thence along U.S Highway 93 to junction Montana Highway 28, thence along Montana Highway 28 to junction Montana Highway 200, thence along Montana Highway 200 to junction Montana Highway 461, thence along Montana Highway 461 to junction Interstate Highway 90, thence along Interstate Highway 90 to the Montana-Idaho State line, thence along Interstate Highway 90 to junction Idaho Highway 3, thence along Idaho Highway 3 to junction U.S. Highway 12, thence along U.S. Highway 12 to the Idaho-Washington State line, thence along U.S. Highway 12 to junction Washington Highway 126, thence along Washington Highway 126 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction Washington Highway 125, thence along Washington Highway 125 to the Washington-Oregon State line.

Thence along Oregon Highway 11 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 395, thence along U.S. Highway 395 to the Oregon-California State line, thence along U.S. Highway 395 to junction California Highway 299, thence along California Highway 299 to junction California Highway 139, thence along California Highway 139 to junction California Highway 36, thence along California Highway 36 to junction California Highway 89, thence along California Highway 89 to junction California Highway 70, thence along California Highway 70 to junction California Highway 65, thence along California Highway 65 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction Interstate Highway 5, thence along Interstate Highway 5 to junction

California Highway 16, thence along California Highway 16 to junction California Highway 20, thence along California Highway 20 to the Pacific Ocean to points in North Carolina on and west of a line beginning at the Tennessee-North Carolina State line at U.S. Highway 441 and extending along U.S. Highway 441 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction North Carolina Highway 28, thence along North Carolina Highway 28 to junction unnumbered highway near Stecoak, N.C., thence along unnumbered highway to junction U.S. Highway 129, thence along U.S. Highway 129 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction unnumbered highway near Nantahala, N.C., thence along unnumbered highway through Kyle and Aquone, N.C., to junction U.S. Highway 64, thence along U.S. Highway 64 to junction U.S. Highway 23, thence along U.S. Highway 23 to the North Carolina-Georgia State line. The purpose of this filing is to eliminate the gateways of Smyth County and Lynchburg, Va.

No. MC 61825 (Sub-No. E227), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts, materials, and supplies* used in the manufacture and distribution of new furniture and furniture parts (except in bulk), from points in California, Idaho, Nevada, Oregon, and Washington on and west of a line beginning at the United States-Canada International Boundary line extending along U.S. Highway 95 to junction Idaho Highway 200, thence along Idaho Highway 200 to junction U.S. Highway 2, thence along U.S. Highway 2 to the Idaho-Washington State line, thence along U.S. Highway 2 to junction U.S. Highway 195, thence along U.S. Highway 195 to the Idaho-Washington State line, thence along U.S. Highway 195 to junction U.S. Highway 12, thence along U.S. Highway 12 to the Idaho-Washington State line, thence along U.S. Highway 12 to junction Washington Highway 129, thence along Washington Highway 129 to junction unnumbered highway near Fields Spring, Wash., thence along unnumbered highway to the Washington-Oregon State line, thence along unnumbered highway to junction Oregon Highway 82, thence along Oregon Highway 82 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction Oregon Highway 244, thence along Oregon Highway 244 to junction U.S. Highway 395, thence along U.S. Highway 395 to the Oregon-California State line, thence along the Oregon-California State line, thence along the Oregon-California State line to the California-Nevada State line, thence along the California-Nevada State line to junction U.S. Highway 395, thence along U.S. Highway 395 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction U.S. Highway Alternate 95, thence along U.S. Highway Alternate 95 to junction U.S. Highway 95, thence along U.S. Highway 95 to junction Nevada Highway 10, thence along Nevada Highway 10 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Nevada-California State line, thence along U.S. Highway 6 to junction U.S. Highway 395, thence along U.S. Highway 395 to junction California Highway 58.

Thence along California Highway 58 to junction unnumbered highway near Barstow, Calif., thence along unnumbered highway to junction California Highway 18, thence along California Highway 18 to junction unnumbered highway near Baldwin Lake, Calif., thence along unnumbered highway to junction California Highway 62, thence along California Highway 62 to junction Interstate Highway 10, thence along Interstate Highway 10 to junction California Highway 111, thence along California Highway 111 to junction California Highway 74, thence along California Highway 74 to junction California Highway 71, thence along California Highway 71 to junction California Highway 79, thence along California Highway 79 to junction U.S. Highway 80, thence along U.S. Highway 80 to junction California Highway S–1, thence along California Highway S–1 to junction California Highway 94, thence along California Highway 94 to junction unnumbered highway near Tecate, Calif., thence along unnumbered highway to the United States-Mexico International Boundary line to points in Virginia on and west of a line beginning at the Virginia-West Virignia State line and extending along Virginia Highway 311 to junction Virginia Highway 42, thence along Virginia Highway 42 to junction Virginia Highway 100, thence along Virginia Highway 100 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction Virginia Highway 100,thence along Virginia Highway 100 to junction U.S. Highway 58, thence along U.S. Highway 58 to junction Virginia Highway 89, thence along Virginia Highway 89 to the Virginia-North Carolina State line. The purpose of this filing is to eliminate the gateways of Smyth County, and Lynchburg, Va.

No. MC 61825 (Sub-No. E228), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts, materials, and supplies* used in the manufacture and distribution of new furniture and furniture parts (except in bulk), from points in Minnesota on, north, and west of a line beginning at the South Dakota-Minnesota State line and extending along U.S. Highway 12 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction Minnesota Highway 27, thence along Minnesota Highway 27 to junction Minnesota Highway 54, thence along Minnesota Highway 54 to junction Minnesota Highway 79, thence along Minnesota Highway 79 to junction Minnesota Highway 78, thence along Minnesota Highway 78 to junction U.S. Highway 10, thence along U.S. Highway 10 to Frazee, Minn., thence along unnumbered highway to junction Minnesota Highway 34, thence along Minnesota Highway 34 to junction U.S. Highway 71, thence along U.S. Highway 71 to the United States-Canada International Boundary line to points in Maryland on and south of a line beginning at the Virginia-Maryland State line near Frederick, Md., thence along Maryland Highway 85 to Buckeystown, Md., thence along unnumbered highway to Urbana, Md., thence along Maryland Highway 80 to junction Maryland Highway 75, thence along Maryland Highway 75 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Interstate Highway 95, thence along Interstate Highway 95 to the Maryland-Delaware State line and north of a line beginning at the Virginia-Maryland State line near the southern boundary line of Washington, D.C., thence along the Washington, D.C., boundary line to U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 301, thence along U.S. Highway 301 to junction Maryland Highway 302, thence along Maryland Highway 302 to junction Maryland Highway 454, thence along Maryland Highway 454 to the Maryland-Delaware State line. The purpose of this filing is to eliminate the gateways of Smyth County and Lynchburg, Va.

No. MC 61825 (Sub-No. E229), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts, materials, and supplies* used in the manufacture and distribution of new furniture and furniture parts (except in bulk), from points in Minnesota on, north, and west of a line beginning at the Iowa-Minnesota State line near Albert Lea, Minn., thence along U.S. Highway 69 to junction U.S. Highway 16, thence along U.S. Highway 16 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 14, thence along U.S. Highway 14 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction Minnesota Highway 58, thence along Minnesota Highway 58 to junction U.S. Highway 63, thence along U.S. Highway 63 to the Minnesota-Wisconsin State line to points in Maryland on and south of a line beginning at the Virginia-Maryland State line near the southern boundary line of Washington, D.C., thence along the Washington, D.C., boundary line to U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 301, thence along U.S. Highway 301 to junction Maryland Highway 302, thence along Maryland Highway 302 to junction Maryland Highway 454, thence along Maryland Highway 454 to the Maryland-Delaware State line. The purpose of this filing is to eliminate

the gateways of Smyth County and Lynchburg, Va.

No. MC 61825 (Sub-No. E230), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts, materials, and supplies* used in the manufacture and distribution of new furniture and furniture parts (except in bulk), from points in Minnesota on, north, and west of a line beginning at the Iowa-Minnesota State line near Albert Lea, Minn., thence along U.S. Highway 69 to junction U.S. Highway 16, thence along U.S. Highway 16 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction Minnesota Highway 58, thence along Minnesota Highway 58 to junction U.S. Highway 63, thence along U.S. Highway 63 to the Minnesota-Wisconsin State line to Washington, D.C. The purpose of this filing is to eliminate the gateways of Smyth County and Lynchburg, Va.

No. MC 61825 (Sub-No. E231), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts, materials, and supplies* used in the manufacture and distribution of new furniture and furniture parts (except in bulk), from points in Minnesota on, north, and west of a line beginning at the North Dakota-Minnesota State line near East Grand Forks, Minn., thence along U.S. Highway 2 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction Minnesota Highway 73, thence along Minnesota Highway 73 to junction U.S. Highway 53, thence along U.S. Highway 53 to the United States-Canada International Boundary line to points in North Carolina on and east of a line beginning at the South Carolina-North Carolina State line and extending along Alternate U.S. Highway 221 to junction North Carolina Highway 120, thence along North Carolina Highway 120 to junction U.S. Highway 74, thence along U.S. Highway 74 to junction North Carolina Highway 18, thence along North Carolina Highway 18 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction North Carolina Highway 18, thence along North Carolina Highway 18 to the Ashe-Alleghany County line, thence along the Ashe-Alleghany County line to U.S. Highway 221, thence along U.S. Highway 221 to junction North Carolina Highway 113, thence along North Carolina Highway 113 to junction North Carolina Highway 93, thence along North Carolina Highway 93 to the North Carolina-Virginia State line and west of a line beginning at the South Carolina-North Carolina State line and extending along U.S. Highway 321 to junction North Carolina Highway 16, thence along North Carolina Highway 16 to junction North Carolina Highway 90, thence along North Carolina Highway 19 to the Alexander-Iredell County line, thence along the Alexander-Iredell County line to North Carolina Highway 901, thence along North Carolina Highway 901 to junction U.S. Highway 21, thence along U.S. Highway 21 to junction U.S. Highway 421, thence along U.S. Highway 421 to junction U.S. Highway 601, thence along U.S. Highway 601 to junction North Carolina Highway 268, thence along North Carolina Highway 268 to junction North Carolina Highway 66, thence along North Carolina Highway 66 to junction North Carolina Highway 89, thence along North Carolina Highway 89 to junction North Carolina Highway 704, thence along North Carolina Highway 704 to junction North Carolina Highway 8, thence along North Carolina Highway 8 to the North Carolina-Virginia State line. The purpose of this filing is to eliminate the gateways of Smyth County and Lynchburg, Va.

No. MC 61825 (Sub-No. E232), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts, materials, and supplies* used in the manufacture and distribution of new furniture and furniture parts (except in bulk), from points in Minnesota to points in North Carolina on and east of a line beginning at the South Carolina-North Carolina State line and extending along U.S. Highway 321 to junction North Carolina Highway 16, thence along North Carolina Highway 16 to junction North Carolina Highway 90, thence along North Carolina Highway 90 to the Alexander-Iredell County line, thence along the Alexander-Iredell County line to North Carolina Highway 901, thence along North Carolina Highway 901 to junction U.S. Highway 21, thence along U.S. Highway 21 to junction U.S. Highway 421, thence along U.S. Highway 421 to junction U.S. Highway 601, thence along U.S. Highway 601 to junction North Carolina Highway 268, thence along North Carolina Highway 268 to junction North Carolina Highway 66, thence along North Carolina Highway 66 to junction North Carolina Highway 89, thence along North Carolina Highway 89 to junction North Carolina Highway 704, thence along North Carolina Highway 704 to junction North Carolina Highway 8, thence along North Carolina Highway 8 to the North Carolina-Virginia State line. The purpose of this filing is to eliminate the gateways of Smyth County and Lynchburg, Va.

No. MC 61825 (Sub-No. E233), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts, materials, and supplies* used in the manufacture and distribution of new furniture and furniture parts (except in bulk), from points in Minnesota on, north, and west of a line beginning at the North Dakota-Minnesota State line and extending along U.S. Highway 2 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction Minnesota Highway 73, thence along Minnesota Highway 73 to junction U.S. Highway 53, thence along U.S. Highway 53 to the United States-Canada International Boundary line to points in South Carolina on and east of a line beginning at the Georgia-South Carolina State line and extending along U.S. Highway 25 to junction South Carolina Highway 121, thence along South Carolina Highway 121 to junction U.S. Highway 176, thence along U.S. Highway 176 to junction South Carolina Highway 49, thence along South Carolina Highway 49 to junction U.S. Highway 321, thence along U.S. Highway 321 to the South Carolina-North Carolina State line and points located west of a line beginning at the Georgia-South Carolina State line extending along U.S. Highway 17 to junction Alternate U.S. Highway 17, thence along Alternate U.S. Highway 17 to junction U.S. Highway 21, thence along U.S. Highway 21 to junction U.S. Highway 178, thence along U.S. Highway 178 to junction U.S. Highway 601, thence along U.S. Highway 601 to junction U.S. Highway 521, thence along U.S. Highway 521 to the South Carolina-North Carolina State line. The purpose of this filing is to eliminate the gateways of points in Smyth County and Lynchburg, Va.

No. MC 61825 (Sub-No. E234), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts, materials, and supplies* used in the manufacture and distribution of new furniture and furniture parts (except in bulk), from points in Minnesota to points in South Carolina on and east of a line beginning at the Georgia-South Carolina State line and extending along U.S. Highway 17 to junction Alternate U.S. Highway 17, thence along Alternate U.S. Highway 17 to junction U.S. Highway 21, thence along U.S. Highway 21 to junction U.S. Highway 178, thence along U.S. Highway 178 to junction U.S. Highway 601, thence along U.S. Highway 601 to junction U.S. Highway 521, thence along U.S. Highway 521 to the South Carolina-North Carolina State line. The purpose of this filing is to eliminate the gateways of points in Smyth County and Lynchburg, Va.

No. MC 61825 (Sub-No. E248), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials* used in the manufacture of furniture, from points in Pennsylvania on and east of a line beginning on the New York-Pennsylvania State line extending along U.S. Highway 15 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 287, thence along Pennsylvania Highway 287 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction Pennsylvania Highway 44, thence along Pennsylvania Highway 44 to junction Pennsylvania Highway 880, thence along Pennsylvania Highway 880 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Centre-Union County line, thence along the Centre-Union County line to junction Pennsylvania Highway 45, thence along Pennsylvania Highway 45 to junction Pennsylvania Highway 235, thence along Pennsylvania Highway 235 to junction U.S. Highway 522, thence along U.S. Highway 522 to the Pennsylvania-Maryland State line and west and north of a line beginning at the New Jersey-Pennsylvania State line and extending along Interstate Highway 80 to junction Pennsylvania Highway 191, thence along Pennsylvania Highway 191 to junction Pennsylvania Highway 512, thence along Pennsylvania Highway 512 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction Pennsylvania Turnpike Extension, thence along the Pennsylvania Turnpike Extension to junction U.S. Highway 222, thence along U.S. Highway 222 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Interstate Highway 83, thence along Interstate Highway 83 to the Pennsylvania-Maryland State line to points in Kentucky on, east, and south of a line beginning at the Tennessee-Kentucky State line and extending along U.S. Highway 127 to junction Kentucky Highway 90, thence along Kentucky Highway 90 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction Kentucky Highway 80, thence along Kentucky Highway 80 to junction Kentucky Highway 15, thence along Kentucky Highway 15 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction U.S. Highway 23, thence along U.S. Highway 23 to the Kentucky-Virginia State line. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E249), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials* used in the manufacture of furniture, from points in Ohio on and south of a line beginning at the Indiana-Ohio State line and extending along U.S. Highway 35 to junction Indiana Highway 122, thence along Indiana Highway 122 to junction Indiana Highway 123, thence along Indiana Highway 123 to junction Indiana Highway 350, thence along Indiana Highway 350 to junction Indiana Highway 134, thence along Indiana Highway 134 to junction Indiana Highway 124, thence along Indiana Highway 124 to junction Indiana Highway 346, thence along Indiana Highway 346 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Ohio River to points in North Carolina on and east of a line beginning at the South Carolina-North Carolina State line near Charlotte, N.C., thence along Interstate Highway 77 to junction U.S. Highway 21, thence along U.S. Highway 21 to junction U.S. Highway 421, thence along U.S. Highway 421 to the Yadkin-Forsyth County line, thence along the Yadkin-Forsyth County line to junction North Carolina Highway 67, thence along North Carolina Highway 67 to junction North Carolina Highway 65, thence along North Carolina Highway 65 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction North Carolina Highway 268, thence along North Carolina Highway 268 to junction North Carolina Highway 66, thence along North Carolina Highway 66 to junction North Carolina Highway 704, thence along North Carolina Highway 704 to junction North Carolina Highway 8, thence along North Carolina Highway 8 to the North Carolina-Virginia State line. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E250), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials* used in the manufacture of furniture, from points in Ohio on, north, and east of a line beginning at the Indiana-Ohio State line and extending along U.S. Highway 35 to junction Indiana Highway 122, thence along Indiana Highway 122 to junction Indiana Highway 123, thence along Indiana Highway 123 to junction Indiana Highway 350, thence along Indiana Highway 350 to junction Indiana Highway 134, thence along Indiana Highway 134 to junction Indiana Highway 124, thence along Indiana Highway 124 to junction Indiana Highway 346, thence along Indiana Highway 346 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Ohio River and points located south and west of a line beginning on Lake Erie in Cleveland, Ohio, thence along the Cuyahoga River to Interstate Highway 90, thence along Interstate Highway 90 to junction Ohio Highway 14, thence along Ohio Highway 14 to junction Interstate Highway 480, thence along Interstate Highway 480 to junction Ohio Highway 14, thence along Ohio Highway 14 to junction Ohio Highway 183, thence along Ohio Highway 183 to junction Ohio Highway 173, thence along Ohio Highway 173 to Westville, Ohio, thence along unnumbered highway to East Rochester, Ohio, thence along U.S. Highway 30 to junction Ohio Highway 644, thence along Ohio Highway 644 to junction Ohio Highway 164, thence along Ohio Highway 164 to junction Ohio Highway 43, thence along Ohio Highway 43 to junction Ohio Highway 152, thence along Ohio Highway 152 to junction Ohio Highway 150, thence along Ohio Highway 150 to junction Ohio Highway 647, thence along Ohio Highway 647 to the Ohio River to points in North Carolina on, east, and south of a line beginning at the South Carolina-North Carolina State line, thence along North Carolina Highway 18 to junction North Carolina Highway 150, thence along North Carolina Highway 150 to junction U.S. Highway 321.

Thence along U.S. Highway 321 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction U.S. Highway 21, thence along U.S. Highway 21 to junction U.S. Highway 421, thence along U.S. Highway 421 to junction U.S. Highway 601, thence along Highway 601 to junction North Carolina Highway 268, thence along North Carolina Highway 268 to junction North Carolina Highway 704, thence along North Carolina Highway 704 to junction North Carolina Highway 8, thence along North Carolina Highway 8 to the North Carolina-Virginia State line and points located on, west, and south of a line beginning at the Virginia-North Carolina State line near Roanoke Rapids, thence along North Carolina Highway 46 to junction U.S. Highway 158, thence along U.S. Highway 158 to junction North Carolina Highway 305, thence along North Carolina Highway 305 to junction U.S. Highway 258, thence along U.S. Highway 258 to junction North Carolina Highway 308, thence along North Carolina Highway 308 to junction U.S. Highway 13, thence along U.S. Highway 13 to junction U.S. Highway 64, thence along U.S. Highway 64 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E251), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials* used in the manufacture of furniture, from points in Pennsylvania bounded by a line beginning on Lake Erie and extending along Pennsylvania Highway 8 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction Pennsylvania Highway 120, thence along Pennsylvania Highway 120 to Hyner, Pa., thence along unnumbered highway to junction Pennsylvania Highway 44, thence along Pennsylvania High-

way 44 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction Pennsylvania Highway 442, thence along Pennsylvania Highway 442 to junction Pennsylvania Highway 42, thence along Pennsylvania Highway 42 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction Pennsylvania Highway 93, thence along Pennsylvania Highway 93 to junction Interstate Highway 81, thence along Interstate Highway 81 to junction U.S. Highway 209, thence along U.S. Highway 209 to junction Pennsylvania Highway 147, thence along Pennsylvania Highway 147 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction U.S. Highway 219, thence along U.S. Highway 219 to the Pennsylvania-Maryland State line, thence along the Pennsylvania-Maryland State line to the Pennsylvania-West Virginia State line, thence along the Pennsylvania-West Virginia State line to the Pennsylvania-Ohio State line, thence along the Pennsylvania-Ohio State line to Lake Erie, thence along the Lake Erie Shore to point of beginning to points in Virginia bounded by a line beginning at the North Carolina-Virginia State line, thence along the Carroll-Patrick County line to the Blue Ridge Parkway, thence along the Blue Ridge Parkway to junction Virginia Highway 8, thence along Virginia Highway 8 to junction U.S. Highway 221, thence along U.S. Highway 221 to junction Virginia Highway 681, thence along Virginia Highway 681 to junction Virginia Highway 640, thence along Virginia Highway 640 to junction Virginia Highway 40, thence along Virginia Highway 40 to junction Virginia Highway 640, thence along Virginia Highway 640 to the Banister River, thence along the Banister River to U.S. Highway 501, thence along U.S. Highway 501 to the Virginia-North Carolina State line, thence along the Virginia-North Carolina State line to the point of beginning including points on highways specified. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC-61825 (Sub-No. E252), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials* used in the manufacture of furniture, from points in Pennsylvania bounded by a line beginning on the Maryland-Pennsylvania State line near Salisbury, Pa., thence along U.S. Highway 219 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction Pennsylvania Highway 147, thence along Pennsylvania Highway 147 to junction U.S. Highway 209, thence along U.S. Highway 209 to junction Interstate Highway 81, thence along Interstate Highway 81 to junction Pennsylvania Highway 93, thence along Pennsylvania Highway 93 to junction Pennsylvania Turnpike Extension, thence along the Pennsylvania Turnpike Extension to junction U.S. Highway 222, thence along U.S. Highway 222 to junction Pennsylvania Highway 10, thence along Pennsylvania Highway 10 to junction Pennsylvania Turnpike, thence along the Pennsylvania Turnpike to junction Pennsylvania Highway 82, thence along Pennsylvania Highway 82 to the Pennsylvania-Delaware State line, thence along the Pennsylvania-Delaware State line to the Pennsylvania-Maryland State line, thence along the Pennsylvania-Maryland State line to the point of beginning to points in Virginia bounded by a line beginning at the Tennessee-Virginia State line and extending along U.S. Highway 58 to junction U.S. Highway 221, thence along U.S. Highway 221 to junction Virginia Highway 8, thence along Virginia Highway 8 to the Blue Ridge Parkway, thence along the Blue Ridge Parkway to junction Virginia Highway 640, thence along Virginia Highway 640 to junction Virginia Highway 40, thence along Virginia Highway 40 to junction Virginia Highway 626, thence along Virginia Highway 626 to junction Virginia Highway 57, thence along Virginia Highway 57 to junction U.S. Highway 29, thence along U.S. Highway 29 to junction Virginia Highway 640, thence along Virginia Highway 640 to junction Virginia Highway 832, thence along Virginia Highway 832 to the Pittsylvania-Halifax County line, thence along the Pittsylvania-Halifax Countiy line to the Virginia-North Carolina State line, thence along the Virginia-North Carolina State line to the Virginia-Tennessee State line, thence along the Virginia-Tennessee State line to the point of beginning, including points on highways specified. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E253), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials*, used in the manufacture of furniture, from points in Pennsylvania on, north, and east of a line beginning on Lake Erie, thence along Pennsylvania Highway 8 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction Pennsylvania Highway 120, thence along Pennsylvania Highway 120 to Hyner, Pa., thence along unnumbered highway to junction Pennsylvania Highway 44, thence along Pennsylvania Highway 44 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction Pennsylvania Highway 442, thence along Pennsylvania Highway 442 to junction Pennsylvania Highway 42, thence along Pennsylvania Highway 42 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction Pennsylvania Highway 93, thence along Pennsylvania Highway 93 to junction U.S. Highway 209, thence along U.S. Highway 209 to junction Pennsylvania Turnpike Extension, thence along the Pennsylvania Turnpike Extension to junction U.S. Highway 222, thence along U.S. Highway 222 to junction Pennsylvania Highway 10, thence along Pennsylvania Highway 10 to junction Pennsylvania Turnpike, thence along the Pennsylvania Turnpike to junction Pennsylvania Highway 82, thence along Pennsylvania Highway 82 to the Pennsylvania-Delaware State line to points in Virginia bounded by a line beginning at the Tennessee-Virginia State line near Bristol, Va., thence along U.S. Highway 11 to junction Virginia Highway 637, thence along Virginia Highway 637 to junction Virginia Highway 610, thence along Virginia Highway 610 to junction U.S. Highway 221, thence along U.S. Highway 221 to junction Virginia Highway 739, thence along Virginia Highway 739 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction Virginia Highway 40, thence along Virginia Highway 40 to the Pittsylvania-Halifax County line, thence along the Pittsylvania-Halifax County line to the Virginia-North Carolina State line, thence along the Virginia-North Carolina State line to the Virginia-Tennessee State line to the point of beginning including points on highways specified. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E254), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials* used in the manufacture of furniture, from points in Pennsylvania on, north, and west of a line beginning at the Maryland-Pennsylvania State line near Salisbury, Pa., thence along U.S. Highway 219 to junction Pennsylvania Highway 53, thence along Pennsylvania Highway 53 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction U.S. Highway 322, thence along U.S. Highway 322 to junction Pennsylvania Highway 26, thence along Pennsylvania Highway 26 to junction Pennsylvania Highway 144, thence along Pennsylvania Highway 144 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction Pennsylvania Highway 287, thence along Pennsylvania Highway 287 to junction Pennsylvania Highway 184, thence along Pennsylvania Highway 184 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line to points in North Carolina on and west of a line beginning on the Atlantic Ocean near Atlantic Beach, N.C., thence along unnumbered highway to junction U.S. Highway 70, thence along U.S. Highway 70 to Riverdale, N.C., thence along unnumbered highway to Pollocksville, N.C., thence along North Carolina Highway 58 to junction U.S. Highway 264, thence along U.S. Highway 264 to junction North Carolina Highway 39, thence along North Carolina High-

way 39 to the North Carolina-Virginia State line and points located east of a line beginning on the Atlantic Ocean near Cape Fear, N.C., thence along the Cape Fear River to North Carolina Highway 87, thence along North Carolina Highway 87 to junction North Carolina Highway 141, thence along North Carolina Highway 141 to junction North Carolina Highway 210, thence along North Carolina Highway 210 to junction North Carolina Highway 242, thence along North Carolina Highway 242 to junction North Carolina Highway 24, thence along North Carolina Highway 24 to junction North Carolina Highway 82, thence along North Carolina Highway 82 to junction North Carolina Highway 55, thence along North Carolina Highway 55 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction North Carolina Highway 86, thence along North Carolina Highway 86 to junction North Carolina Highway 119, thence along North Carolina Highway 119 to the North Carolina-Virginia State line. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E255), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials* used in the manufacture of furniture, from points in Pennsylvania to points in North Carolina on and west of a line beginning at the Virginia-North Carolina State line and extending along North Carolina Highway 119 to junction North Carolina Highway 86, thence along North Carolina Highway 86 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction North Carolina Highway 55, thence along North Carolina Highway 55 to junction North Carolina Highway 82, thence along North Carolina Highway 82 to junction North Carolina Highway 24, thence along North Carolina Highway 24 to junction North Carolina Highway 242, thence along North Carolina Highway 242 to junction North Carolina Highway 210, thence along North Carolina Highway 210 to junction North Carolina Highway 141, thence along North Carolina Highway 141 to junction North Carolina Highway 87, thence along North Carolina Highway 87 to the Cape Fear River, thence along the Cape Fear River to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E256), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials* used in the manufacture of furniture, from points in Pennsylvania to points in Georgia on, east, and south of a line beginning at the Alabama-Georgia State line and extending along Georgia Highway 53 to junction Georgia Highway 5, thence along Georgia Highway 5 to junction U.S. Highway 76, thence along U.S. Highway 76 to junction Georgia Highway 5, thence along Georgia Highway 5 to the Georgia-Tennessee State line. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E257), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials* used in the manufacture of furniture, from points in Pennsylvania to points in South Carolina and Florida. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E258), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials* used in the manufacture of furniture, from points in Pennsylvania to points in Louisiana on and south of a line beginning at the Texas-Louisiana State line and extending along Louisiana Highway 6 to junction U.S. Highway 171, thence along U.S. Highway 171 to junction Louisiana Highway 118, thence along Louisiana Highway 118 to junction Louisiana Highway 117, thence along Louisiana Highway 117 to junction Louisiana Highway 120, thence along Louisiana Highway 120 to junction Louisiana Highway 1, thence along Louisiana Highway 1 to junction Louisiana Highway 8, thence along Louisiana Highway 8 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction Louisiana Highway 8, thence along Louisiana Highway 8 to junction Louisiana Highway 15, thence along Louisiana Highway 15 to junction Louisiana Highway 4, thence along Louisiana Highway 4 to junction Louisiana Highway 888, thence along Louisiana Highway 888 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction Louisiana Highway 603, thence along Louisiana Highway 603 to King, La., thence along unnumbered highway to Delta, La., thence along U.S. Highway 80 to the Mississippi River. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E259), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials* used in the manufacture of furniture, from points in Pennsylvania, on and east of a line beginning at the West Virginia-Pennsylvania State line near Waynesburg, Pa., thence along Pennsylvania Highway 218 to junction Pennsylvania Highway 21, thence along Pennsylvania Highway 21 to junction Pennsylvania Highway 188, thence along Pennsylvania Highway 188 to junction Pennsylvania Highway 88, thence along Pennsylvania Highway 88 to junction Pennsylvania Highway 136, thence along Pennsylvania Highway 136 to junction Pennsylvania Highway 51, thence along Pennsylvania Highway 51 to junction Pennsylvania Highway 48, thence along Pennsylvania Highway 48 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction Pennsylvania Highway 286, thence along Pennsylvania Highway 286 to junction Pennsylvania Highway 380, thence along Pennsylvania Highway 380 to junction Pennsylvania Highway 66, thence along Pennsylvania Highway 66 to junction Pennsylvania Highway 948, thence along Pennsylvania Highway 948 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 62, thence along U.S. Highway 62 to the Pennsylvania-New York State line, to points in Louisiana north of a line beginning on the Texas-Louisiana State line and extending along Louisiana Highway 6 to junction U.S. Highway 171, thence along U.S. Highway 171 to junction Louisiana Highway 118, thence along Louisiana Highway 118 to junction Louisiana Highway 117, thence along Louisiana Highway 117 to junction Louisiana Highway 117 to junction Louisiana Highway 120, thence along Louisiana Highway 120 to junction Louisiana Highway 1, thence along Louisiana Highway 1 to junction Louisiana Highway 8, thence along Louisiana Highway 8 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction Louisiana Highway 8, thence along Louisiana Highway 8 to junction Louisiana Highway 15, thence along Louisiana Highway 15 to junction Louisiana Highway 4, thence along Louisiana Highway 4 to junction Louisiana Highway 888, thence along Louisiana Highway 888 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction Louisiana Highway 603, thence along Louisiana Highway 603 to King, La., thence along unnumbered highway to Delta, La., thence along U.S. Highway 8 to the Mississippi River. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E260), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials* used in the manufacture of furniture, from points in Pennsylvania to points in Mississippi on and south of a line beginning on the Louisiana-Mississippi State line and extending along U.S. Highway 80 to junction Mississippi Highway 39, thence along Mississippi Highway 39 to junction Mississippi Highway 16, thence along Mississippi Highway 16 to the Mississippi-Alabama State line. The purpose

of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E261), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials* used in the manufacture of furniture, from points in Pennsylvania on and east of a line beginning on the Maryland-Pennsylvania State line and extending along U.S. Highway 219 to junction Pennsylvania Highway 403, thence along Pennsylvania Highway 403 to junction Pennsylvania Highway 56, thence along Pennsylvania Highway 56 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction Pennsylvania Highway 255, thence along Pennsylvania Highway 255 to junction Pennsylvania Highway 555, thence along Pennsylvania Highway 555 to junction Pennsylvania Highway 120, thence along Pennsylvania Highway 120 to junction Pennsylvania Highway 155, thence along Pennsylvania Highway 155 to junction Pennsylvania Highway 607, thence along Pennsylvania Highway 607 to junction Pennsylvania Highway 872, thence along Pennsylvania Highway 872 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 44, thence along Pennsylvania Highway 44 to junction Pennsylvania Highway 49, thence along Pennsylvania Highway 49 to junction Pennsylvania Highway 449, thence along Pennsylvania Highway 449 to the Pennsylvania-New York State line to points in Mississippi north of a line beginning on the Louisiana-Mississippi State line and extending along U.S. Highway 80 to junction Mississippi Highway 39, thence along Mississippi Highway 39 to junction Mississippi Highway 16, thence along Mississippi Highway 16 to the Mississippi-Alabama State line. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E262), filed May 13, 1974. Applicant: RAY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials*, used in the manufacture of furniture, from points in Pennsylvania to points in Alabama on, east, and south of a line beginning on the Mississippi-Alabama State line and extending along Alabama Highway 30 to junction Alabama Highway 17, thence along Alabama Highway 17 to junction Alabama Highway 116, thence along Alabama Highway 116 to junction Alabama Highway 39, thence along Alabama Highway 39 to junction Alabama Highway 14, thence along Alabama Highway 14 to junction U.S. Highway 43, thence along U.S. Highway 43 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction U.S. Highway 431, thence along U.S. Highway 431 to junction U.S. Highway 411, thence along U.S. Highway 411 to the Alabama-Georgia State line. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E263), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials* used in the manufacture of furniture, from points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line extending along U.S. Highway 219 to junction Pennsylvania Highway 403, thence along Pennsylvania Highway 403 to junction Pennsylvania Highway 56, thence along Pennsylvania Highway 56 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction Pennsylvania Highway 255, thence along Pennsylvania Highway 255 to junction Pennsylvania Highway 555, thence along Pennsylvania Highway 555 to junction Pennsylvania Highway 120, thence along Pennsylvania Highway 120 to junction Pennsylvania Highway 155, thence along Pennsylvania Highway 155, to junction Pennsylvania Highway 607, thence along Pennsylvania Highway 607 to junction Pennsylvania Highway 872, thence along Pennsylvania Highway 872 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 44, thence along Pennsylvania Highway 44 to junction Pennsylvania Highway 49, thence along Pennsylvania Highway 49 to junction Pennsylvania Highway 449, thence along Pennsylvania Highway 449 to the Pennsylvania-New York State line to points in Alabama north of a line beginning on the Mississippi-Alabama State line and extending along Alabama Highway 30 to junction Alabama Highway 17, thence along Alabama Highway 17 to junction Alabama Highway 116, thence along Alabama Highway 116 to junction Alabama Highway 39, thence along Alabama Highway 39 to junction Alabama Highway 14, thence along Alabama Highway 14 to junction U.S. Highway 43, thence along U.S. Highway 43 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction U.S. Highway 431, thence along U.S. Highway 431 to junction U.S. Highway 411, thence along U.S. Highway 411 to the Alabama-Georgia State line. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-E264), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B Explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Allegheny County, Pa., on the one hand, and, on the other, points in North Carolina except points in Alexander, Alleghany, Ashe, Avery, Beaufort, Bertie, Buncombe, Caldwell, Camden, Chowan, Currituck, Dare, Gates, Hertford, Hyde, Madison, Mitchell, Pasquotank, Perquimans, Surry, Tyrrell, Washington, Watauga, Wilkes, Yadkin and Yancey Counties. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub E-265), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Beaver County, Pa., on the one hand, and, on the other, points in North Carolina, except points in Alleghany, Ashe, Avery, Buncombe, Camden, Chowan, Currituck, Date, Gates, Hertford, Hyde, Madison, Mitchell, Pasquotank, Perquimans, Surry, Tyrrell, Washington, Watauga, Yadkin and Yancey Counties. The purpose of this filing is to eliminate the gateway of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-E266), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B Explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Butler County, Pa., within 50 miles of Steubenville, Ohio, on the one hand, and, on the other, points in North Carolina except points in Alleghany, Ashe, Avery, Bertie, Buncombe, Camden, Chowan, Currituck, Dare, Gates, Hertford, Hyde, Madison, Mitchell, Pasquotank, Perquimans, Surry, Tyrrell, Washington, Watauga, Wilkes, Yadkin and Yancey Counties. The purpose of this filing is to eliminate the gateways of Weirton, W. Va. and Lynchburg, Va.

No. MC 61825 (Sub-E267), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B Explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or con-

taminating to other lading, between points in Lawrence County, Pa., within 50 miles of Steubenville, Ohio, on the one hand, and, on the other, points in North Carolina *except* points in Buncombe, Currituck, Dare, Madison, Mitchell and Yancey Counties. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-E268), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B Explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Washington County, Pa., on the one hand, and, on the other, points in Alamance, Anson, Bladen, Brunswick, Cabarrus, Carteret, Caswell, Chatham, Columbus, Craven, Cumberland, Duplin, Durham, Franklin, Granville, Greene, Harnett, Hoke, Johnston, Jones, Lee, Lenoir, Macklenburg, Montgomery, Moore, Nash, New Hanover, Onslow, Orange, Pender, Person, Randolph, Richmond, Robeson, Sampson, Scogland, Stanly, Union, Vance, Wake, Wayne and Wilson Counties, N.C. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-E269), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representtive: Joe Clyde Wilson, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of usual value, Classes A and B Explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Belmont County, Ohio, on the one hand, and, on the other, points in Alamance, Anson, Bladen, Brunswick, Carteret, Caswell, Chatham, Columbia, Craven, Cumberland, Duplin, Durham, Edgecomb, Franklin, Granville, Greene, Harnett, Hoke, Johnston, Jones, Lee, Lenoir, Montgomery, Moore, Nash, New Hanover, Onslow, Orange, Pamlico, Pender, Person, Pitt, Randolph, Richmond, Robeson, Sampson, Scotland, Stanly, Union, Vance, Wake, Warren, Wayne, Wilson Counties, N.C. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-E270), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B Explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Carroll County, Ohio, on the one hand, and, on the other, points in North Carolina except points in Avery, Buncombe, Madison, Mitchell, and Yancey Counties. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-E 271), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, livestock, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Guernsey County, Ohio, within 50 miles of Steubenville, Ohio, on the one hand, and, on the other, points in North Carolina except points in Alexander, Alleeghany, Ashe, Avery, Buncombe, Burke, Caldwell, Catawba, Cherokee, Clay, Cleveland, Davidson, Davie, Forsyth, Gaston, Graham, Guilford, Haywood, Henderson, Iredell, Lincoln, McDowell, Macon, Madison, Mitchell, Polk, Randolph, Rockingham, Rowan, Rutherford, Stokes, Surry, Swain, Transylvania, Watauga, Wilkes, Yadkin and Yancey Counties. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-E272), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24073. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Columbians County, Ohio, on the one hand, and, on the other, points in North Carolina except points in Avery, Buncombe, Madison, Mitchell, and Vancey Counties. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-E273), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B Explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Harrison County, Ohio, on the one hand, and, on the other, points in North Carolina *except* points in Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Graham, Haywood, Henderson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Surry, Swain, Transylvania, Watauga, Wilkes, Yadkin and Yancey Counties. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-E274) filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B Explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Jefferson County, Ohio, on the one hand, and, on the other, points in North Carolina *except* points in Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Graham, Haywood, Henderson, McDowell, Macon, Madison, Mitchell, Polk, Surry, Swain, Transylvania, Watauga, Wilkes, Yadkin and Yancey Counties. The purpose of this filing is to eliminate the gateways of Weirton, W. Va.

No. MC 61825 (Sub-E275), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Jose Clyde Wilson, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B Explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Mahoning County, Ohio, within 50 miles of Steubenville, Ohio, on the one hand, and, on the other, points in North Carolina except points in Avery, Buncombe, Madison, Mitchell, and Yancey Counties. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E276), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle,

over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B Explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Monroe County, Ohio, within 50 miles of Steubenville, Ohio, on the one hand, and, on the other, points in Alamance, Anson, Beaufort, Bladen, Brunswick, Carteret, Caswell, Chatham, Columbus, Craven, Cumberland, Duplin, Durham, Edgecomb, Franklin, Granville, Greene, Harnett, Hoke, Hyde, Johnston, Jones, Lee, Lenoir, Montgomery, Moore, Nash, New Hanover, Onslow, Orange, Pamlico, Pender, Person, Pitt, Randolph, Richmond, Robeson, Sampson, Scotland, Stanly, Union, Vance, Wake, Wayne, Wilson Counties, N.C. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-E277), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Stark County, Ohio, within 50 miles of Steubenville, Ohio, on the one hand, and, on the other, points in North Carolina except points in Avery, Buncombe, Madison, Mitchell and Yancey Counties. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-E278), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24073. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B Explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Tuscarawas County, Ohio, within 50 miles of Steubenville, Ohio, on the one hand, and, on the other, points in North Carolina except points in Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Catawba, Cherokee, Clay, Cleveland, Davie, Graham, Haywood, Henderson, Iredell, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rowan, Rutherford, Surry, Swain, Transylvania, Watauga, Wilkes, Yadkin and Yancey Counties. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-E279), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts, materials, equipment, and supplies* used in the manufacture and distribution of new furniture and furniture parts (except in bulk), from points in Texas on and west of a line beginning on the Texas-Oklahoma State line and extending along U.S. Highway 60 to junction U.S. Highway 83, thence south along U.S. Highway 83 to junction U.S. Highway 62/83, thence south along U.S. Highway 62/83 to junction U.S. Highway 70, thence south along U.S. Highway 70 to junction Texas Highway 70, thence south along Texas Highway 70 to junction Texas Highway 208, thence south along Texas Highway 208 to junction U.S. Highway 380, thence west along U.S. 380 to junction Texas Highway 208, thence south along Texas Highway 208 to junction Texas Highway 163, thence south along Texas Highway 163 to junction U.S. Highway 90, thence west along U.S. Highway 90 across the Pecos River, thence west along U.S. Highway 90 to the Rio Grande River to points in South Carolina on and east of a line beginning on the Atlantic Ocean, thence north along U.S. Highway 501 to junction U.S. Highway 76, thence west along U.S. Highway 76 to junction U.S. Highway 52, thence north along U.S. Highway 52 to junction South Carolina Highway 151, thence west along South Carolina Highway 151 to junction South Carolina Highway 109, thence north along South Carolina Highway 109 to junction South Carolina Highway 102, thence north along South Carolina Highway 102 to the South Carolina-North Carolina State line. The purpose of this filing is to eliminate the gateways of points in Smyth County, and Lynchburg, Va.

No. MC 61825 (Sub-E293), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, between points in Georgia on and north of a line beginning at the Georgia-South Carolina State line at Georgia Highway 13, thence west along Georgia Highway 13 to junction U.S. Highway 23, thence southwest along U.S. Highway 23 to junction U.S. Highway 78, thence west along U.S. Highway 78 to the Georgia-Alabama State line, on the one hand, and, on the other, points in California, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming on and west of a line beginning at the Mexico-United States International Boundary line and extending along Interstate Highway 5, to junction of Interstate Highway 8, thence east along Interstate Highway 8 to junction California Highway 79, thence north along California Highway 79 to junction California Highway 71, thence east along California Highway 71 to junction California Highway 74, thence north along California Highway 74 to junction California Highway 111, thence east along California Highway 111 to junction Interstate Highway 10, thence northwest along Interstate Highway 10 to junction California Highway 62, thence north along California Highway 62 to junction unnumbered Highway, thence north through Old Woman Springs, Calif., along unnumbered Highway to junction Interstate Highway 40 at Dagget, Calif., thence west along Interstate Highway 40 to junction Interstate Highway 15, thence northeast along Interstate Highway 15 to junction California Highway 127, thence north along California Highway 127 to the California-Nevada State line, thence north along Nevada Highway 29 to junction U.S. Highway 95, thence north along U.S. Highway 95 to junction U.S. Highway 6, thence east along U.S. Highway 6 to junction Nevada Highway 25, thence east along Nevada Highway 25 to junction Nevada-Utah State line.

Thence east along Utah Highway 56 to junction Utah Highway 18, thence north along Utah Highway 18 to junction Utah Highway 21, thence east along Utah Highway 21 to junction U.S. Highway 91, thence north along U.S. Highway 91 to junction U.S. Highway 89, thence north along U.S. Highway 89 to junction Idaho-Utah State line, thence north along U.S. Highway 89 to junction Idaho-Wyoming State line, thence north along U.S. Highway 89 to junction U.S. Highway 14, thence east along U.S. Highway 14 to junction Big Horn River, thence north along Big Horn River to junction Wyoming-Montana State line, thence north along Big Horn River to junction Montana Highway 47, thence north along Wyoming Highway 47 to junction U.S. Highway 10, thence east along U.S. Highway 10 to junction U.S. Highway 12, thence east along U.S. Highway 12 to junction Montana-North Dakota State line, thence southeast along U.S. Highway 12 to junction North Dakota-South Dakota State line, thence along U.S. Highway 12 to junction South Dakota Highway 65, thence north along South Dakota Highway 65 to junction North Dakota-South Dakota State line, thence north along North Dakota Highway 31 to junction North Dakota Highway 21, thence east along North Dakota Highway 21 to junction North Dakota Highway 6, thence north along North Dakota Highway 6 to junction U.S. Highway 10, thence east along U.S. Highway 10 to junction North Dakota Highway 3, thence north along North Dakota Highway 3 to junction North Dakota Highway 19, thence east along North Dakota Highway 19 to junction North Dakota Highway 20, thence north along North Dakota Highway 20 to junction North Dakota Highway 5, thence along North Dakota Highway 5 to junction U.S. Highway 81, thence north along U.S. Highway 81 to the United States-Canadian

International Boundary line. The purpose of this filing is to eliminate the gateway of points in Smyth County, Va.

No. MC 61825 (Sub-E292), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, between points in Georgia on, south, and west of a line beginning on the Alabama-Georgia State line at U.S. Highway 80, thence east along U.S. Highway 80 to junction U.S. Highway 23, thence south along U.S. Highway 23 to junction U.S. Highway 441, thence south along U.S. Highway 441 to Georgia-Florida State line, on the one hand, and, on the other, points in California, Colorado, Idaho, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming on and west of a line beginning at California Highway 1 at the Pacific Ocean and extending along California Highway 68, thence east along California Highway 68 to junction U.S. Highway 101, thence north along U.S. Highway 101 to junction California Highway 156, thence east along California Highway 156 to junction California Highway 25, thence southeast along California Highway 25 to junction California Highway J1, thence east along California Highway J1 to junction California Highway 180, thence east along California Highway 180 to junction unnumbered Highway near Lake Florence, thence along unnumbered highway to junction California Highway 168, near Lake Sabrina, thence northeast along California Highway 168 to junction U.S. Highway 6, thence north along U.S. Highway 6 to junction California-Nevada State line, thence north along U.S. Highway 6 to junction Nevada-Utah State line, thence east along U.S. Highway 6 to junction Utah Highway 26, thence east along Utah Highway 26 to junction U.S. Highway 91, thence north along U.S. Highway 91 to junction Utah Highway 26, thence east along Utah Highway 26 to junction U.S. Highway 89, thence north along U.S. Highway 89 to junction Interstate Highway 70, thence east along Interstate Highway 70 to junction Utah Highway 10.

Thence north along Utah Highway 10 to junction U.S. Highway 6, thence north along U.S. Highway 6 to junction Utah Highway 33, thence northeast along Utah Highway 33 to junction U.S. Highway 40, thence east along U.S. Highway 40 to junction Utah-Colorado State line, thence east along U.S. Highway 40 to junction Colorado Highway 14, thence north along Colorado Highway 14 to junction Colorado Highway 125, thence north along Colorado Highway 125 to junction Colorado Highway 127, thence north along Colorado Highway 127 to junction Colorado-Wyoming State line, thence north along Wyoming Highway 230 to junction U.S. Highway 287, thence north along U.S. Highway 287 to junction Colorado Highway 34, thence northeast along Colorado Highway 34 to junction U.S. Highway 87, thence north along U.S. Highway 87 to junction U.S. Highway 26, thence east along U.S. Highway 26 to junction U.S. Highway 85, thence north along U.S. Highway 85 to junction U.S. Highway 20, thence east along U.S. Highway 20 to junction Wyoming-Nebraska State line, thence east along U.S. Highway 20 to junction Nebraska Highway 27, thence north along Nebraska Highway 27 to junction Nebraska-South Dakota State line, thence north along South Dakota Highway 75 to junction U.S. Highway 18, thence east along U.S. Highway 18 to junction Nebraska Highway 73, thence north along Nebraska Highway 73 to junction U.S. Highway 14, thence east along U.S. Highway 14 to junction Nebraska Highway 47, thence north along Nebraska Highway 47 to junction U.S. Highway 212, thence east along U.S. Highway 212 to junction South Dakota-Minnesota State line, thence north along the South Dakota-Minnesota State line to junction North Dakota-Minnesota State line, thence north along the North Dakota-Minnesota State line to the Canadian-United States International Boundary line. The purpose of this filing is to eliminate the gateway of points in Smyth County, Va.

No. MC 61825 (Sub-E294), filed May 13, 1974. Applicant: ROY STONE TRANSFER COMPANY, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, between points in Georgia on, south, and east of a line beginning at the Georgia-Florida State line at U.S. Highawy 441, thence north along U.S. Highway 441 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction Georgia Highway 11, thence along Georgia Highway 11 to junction Georgia Highway 211, thence along Georgia Highway 211 to junction Interstate Highway 85, thence west along Interstate Highway 85 to junction Georgia Highway 366 thence north along Georgia Highway 366 to junction Georgia Highway 13, thence east along Georgia Highway 13 to junction Georgia-South Carolina State line, on the one hand, and, on the other, points in California, Colorado, Idaho, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming on and west of a line beginning at the Mexico-United States International Boundary line at Interstate Highway 5 and extending north along Interstate Highway 5 to the junction of Interstate Highway 8, thence east along Interstate Highway 8 to junction California Highway 79, thence north along California Highway 79 to junction California Highway 71, thence east along California Highway 71 to junction California Highway 74, thence north along California Highway 74 to junction California Highway 111, thence east along California Highway 111 to junction Interstate Highway 10, thence east along Interstate Highway 10 to junction unnumbered Highway thence northeast along unnumbered Highway to junction U.S. Highway 95, thence north along U.S. Highway 95 to junction Interstate High-Highway 15 thence east along Georgia Highway 15 to junction Nevada-Arizona State line, thence north along Nevada-Arizona State line to the Arizona-Utah State line, thence along the Arizona-Utah State line to junction U.S. Highway 160, thence along U.S. Highway 160 to junction Arizona-Colorado State line.

Thence east along U.S. Highway 160 to junction Interstate Highway 25, thence north along Interstate Highway 25 to junction U.S. Highway 24, thence east along U.S. Highway 24 to junction Colorado Highway 71, thence north along Colorado Highway 71 to junction U.S. Highway 6, thence northeast along U.S. Highway 6 to junction U.S. Highway 138, thence east along U.S. Highway 138 to junction Colorado Highway 113, thence north along Colorado Highway 113 to the Colorado-Nebraska State line, thence north along Nebraska Highway 19 to junction U.S. Highway 385, thence north along U.S. Highway 385 to junction Nebraska Highway 2, thence east along Nebraska Highway 2 to junction Nebraska Highway 91, thence east along Nebraska Highway 91 to junction U.S. Highway 183, thence north along U.S. Highway 183 to the Nebraska-South Dakota State line to junction South Dakota Highway 37, thence north along South Dakota Highway 37 to junction U.S. Highway 18, thence east along U.S. Highway 18 to junction U.S. Highway 77, thence north along U.S. Highway 77 to junction U.S. Highway 16, thence east along U.S. Highway 16 to the South Dakota-Minnesota State line, thence north along the South Dakota-Minnesota State line to the Minnesota-North Dakota State line, thence north along the Minnesota-North Dakota State line to the Canadian-United States International Boundary line. The purpose of this filing is to eliminate the gateway of points in Smyth County, Va.

No. MC 61825 (Sub-E295), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, between Atlanta, Ga., on the one hand, and, on the other, points in California, Colorado, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming on and west of a line beginning at the United States-Mexico International Boundary line and extending along Interstate Highway 5, to junction Interstate Highway 8, thence east along Interstate Highway 8 to junction California Highway 79, thence north along California Highway 79 to junction California Highway 71, thence east along Cali-

fornia Highway 74, thence east along California Highway 74 to junction California Highway 111, thence east along California Highway 111 to junction Interstate Highway 10, thence northwest along Interstate Highway 10 to junction California Highway 62, thence north along California Highway 62 to junction unnumbered Highway, thence north along unnumbered Highway through Old Woman Springs, Calif., to junction Interstate Highway 40, to Dagget, Calif., thence west along Interstate Highway 40 to junction Interstate Highway 15, thence northeast along Interstate Highway 15 to junction California Highway 127, thence north along California Highway 127 to the California-Nevada State line, thence north along Nevada Highway 29 to junction U.S. Highway 95, thence north along U.S. Highway 95 to junction U.S. Highway 6, thence east along U.S. Highway 6 to junction Nevada Highway 25, thence east along Nevada Highway 25 to the Nevada-Utah State line, thence east along Utah Highway 56 to junction Utah Highway 14, thence east along Utah Highway 14 to junction U.S. Highway 89, thence north along way 4, thence east along Utah Highway 4 to junction Utah Highway 10, thence north along Utah Highway 10 to junction Utah Highway 33, thence north along Utah Highway 33 to junction U.S. Highway 40, thence east along U.S. Highway 40 to Utah-Colorado State line

Thence east along U.S. Highway 40 to junction Colorado Highway 14, thence north along Colorado Highway 14 to junction Colorado Highway 125, thence north along Colorado Highway 125 to junction Colorado Highway 127, thence north along Colorado Highway 127 to the Wyoming-Colorado State line, thence north along Wyoming Highway 230 to junction U.S. Highway 287, thence north along U.S. Highway 287 to junction Wyoming Highway 34, thence northeast along Wyoming Highway 34 to junction U.S. Highway 87, thence north along U.S. Highway 87 to junction U.S. highway 18, thence east along U.S. Highway 18 to the Wyoming-South Dakota State line, thence east along U.S. Highway 18 to junction South Dakota Highway 79, thence north along South Dakota Highway 79 to junction U.S. Highway 14, thence east along U.S. Highway 14 to junction South Dakota Highway 47, thence north along South Dakota Highway 47 to junction South Dakota Highway 26, thence east along South Dakota Highway 26 to junction U.S. Highway 281, thence north along U.S. Highway 281 to junction U.S. Highway 212, thence east along U.S. Highway 212 to the South Dakota-Minnesota State line, thence north along the Minnesota-South Dakota State line to the Minnesota-North Dakota State line, thence north along the Minnesota-North Dakota State line to the Canandian-United States International Boundary line. The purpose of this filing is to eliminate the gateway of points in Smyth County, Va.

No. MC 61825 (Sub-E309), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B Explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Allegheny County, Pa., on the one hand, and, on the other, points in Amherst, Appomattox, Bedford, Brunswick, Campbell, Carroll, Charlotte, Halifax, Henry, Lunenburg, Mecklenburg, Nottoway, Patrick, Pittsylvania, and Prince Edward, including independent cities bounded by above named Counties. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-E310), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B Explosives, livestock, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Beaver County, Pa., on the one hand, and, on the other, points in Amherst, Appomattox, Bedford, Brunswick, Campbell, Carroll, Charlotte, Dinwiddie, Floyd, Franklin, Greensville, Halifax, Henry, Lunenburg, Mecklenburg, Nottoway, Patrick, Pittsylvania, Prince Edward, and Pulaski Counties, Va., including independent cities bounded by the above named counties. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-E311), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* except those of unusual value, Classes A and B Explosives, livestock, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Butler County, Pa., within 50 miles of Steubenville, Ohio, on the one hand, and, on the other, points in Amherst, Appomattox, Bedford, Brunswick, Campbell, Carroll, Charlotte, Floyd, Franklin, Greenville, Halifax, Henry, Lunenberg, Mecklenberg, Nottoway, Patrick, Pittsylvania, Prince Edward, and Pulaski Counties, Va., including independent cities bounded by the above named counties. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-E312), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B Explosives, livestock, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Lawrence County, Pa., within 50 miles of Steubenville, Ohio, on the one hand, and, on the other, points in Amelia, Amherst, Appomattox, Bedford, Botetourt, Brunswick, Campbell, Carroll, Charlotte, Cumberland, Dinwiddie, Floyd, Franklin, Grayson, Greensville, Halifax, Henry, Lunenburg, Mecklenburg, Nottoway, Patrick, Pittsylvania, Prince Edward, Pulaski, and Southampton Counties, Va., including independent cities bounded by the above named counties. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-E313), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B Explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Washington County, Pa., on the one hand, and, on the other, points in Campbell, Charlotte, Halifax, Mecklenburg, Pittsylvania, and Prince Edward Counties, Va., including independent cities bounded by the above named counties. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-E314), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those unusual value, Classes A and B Explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Belmont County, Ohio, on the one hand, and, on the other, points in Campbell, Charlotte, Halifax, Lunenburg, Mecklenburg, Prince Edward, and Pittsylvania Counties, Va., including independent cities bounded by the above named counties. The purpose of this

filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-E215), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B Explosives, livestock, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Carroll County, Ohio, on the one hand, and, on the other, points in Amelia, Amherst, Appomattox, Bedford, Botetourt, Brunswick, Buckingham, Campbell, Carroll, Charlotte, Cumberland, Dinwiddie, Floyd, Franklin, Goochland, Grayson, Greensville, Halifax, Henry, Isle of Wight, Lunenburg, Mecklenburg, Nottoway, Patrick, Pittsylvania, Powhatan, Prince Edward, Prince George, Pulaski, Roanoke, Southampton, Surry, Sussex, and Chesapeake, Nansemond, Norfolk, Princess Anne, and Virginia Beach, Va., including independent cities bounded by the above named counties. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-E316), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B Explosives, livestock, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Columbiana County, Ohio, on the one hand, and, on the other, points in Amelia, Amherst, Appomattox, Bedford, Botetourt, Brunswick, Buckingham, Campbell, Carroll, Charlotte, Cumberland, Dinwiddie, Floyd, Franklin, Grayson, Greensville, Halifax, Henry, Isle of Wight, Lunenburg, Mecklenburg, Nottoway, Patrick, Pittsylvania, Powhatan, Prince Edward, Prince George, Pulaski, Roanoke, Southampton, Surry, Sussex, and Chesapeake, Nansemond, Norfolk, Princess Anne, and Virginia Beach, Va., and including independent cities bounded by the above named counties. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-E317), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B Explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Guernsey County, Ohio, within 50 miles of Steubenville, Ohio, on the one hand, and, on the other, points in Amelia, Amherst, Appomattox, Bedford, Brunswick, Buckingham, Campbell, Charlotte, Chesapeake (City), Cumberland, Dinwiddie, Greensville, Halifax, Isle of Wight, Lunenburg, Mecklenburg, Nansemond (City), Norfolk (City), Nottoway, Pittsylvania, Powhatan, Prince Edward, Prince George, Princess Ann (City), Roanoke, Southampton, Surry, and Sussex Counties, Va., Virginia Beach (City) and Chesapeake, Nansemond, Norfolk, Princess Anne and Virginia Beach, Va., including independent cities bounded by the above named counties. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-E318), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B Explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Harrison County, Ohio, on the one hand, and, on the other, points in Amelia, Appomattox, Amherst, Bedford, Brunswick, Campbell, Carroll, Charlotte, Cumberland, Dinwiddie, Greensville, Halifax, Henry, Lunenburg, Mecklenburg, Nottoway, Patrick, Pittsylvania, Prince Edward Counties, Va., including independent cities bounded by the above named counties, and Nansemond, Va. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-E319), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B Explosives, livestock, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Jefferson County, Ohio, on the one hand, and, on the other, points in Amelia, Amherst, Appomattox, Bedford, Brunswick, Campbell, Carroll, Charlotte, Cumberland, Dinwiddie, Floyd, Franklin, Greensville, Halifax, Henry, Isle of Wight, Lunenburg, Mecklenburg, Nottoway, Patrick, Pittsylvania, Prince Edward, Prince George, Southampton, Surry, Sussex Counties, Va., including independent cities bounded by the above named counties, and Chesapeake, Nansemond, Norfolk, Princess Anne, and Virginia Beach, Va. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-E320), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B Explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Mahoning County, Ohio, within 50 miles of Steubenville, Ohio, on the one hand, and, on the other, Amelia, Amherst, Appomattox, Bedford, Botetourt, Brunswick, Buckingham, Campbell, Carroll, Charlotte, Cumberland, Dinwiddie, Floyd, Franklin, Grayson, Greensville, Halifax, Henry, Isle of Wight, Lunenburg, Mecklenburg, Nelson, Nottoway, Patrick, Pittsylvania, Powhatan, Prince Edward, Prince George, Southhampton, Sussex Counties Va., and Chesapeake, Nansemond, Norfolk, and Princess Anne, Va., including independent cities bounded by the above named counties. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-E321), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Monroe County, Ohio, within 50 miles of Steubenville, Ohio, on the one hand, and, on the other, points in Mecklenburg and Prince Edward Counties, Va., including independent cities within the above named counties. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-E322), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B Explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Stark County, Ohio, within 50 miles of Steuben-

ville, Ohio, on the one hand, and, on the other, points in Amelia, Amherst, Appomattox, Bedford, Botetourt, Brunswick, Buckingham, Campbell, Carroll, Charlotte, Chesterfield, Cumberland, Dinwiddie, Floyd, Franklin, Grayson, Greensville, Halifax, Henry, Isle of Wight, Lunenburg, Mecklenburg, Nelson, Nottoway, Patrick, Pittsylvania, Powhatan, Prince Edward, Prince George, Roanoke, Southampton, Surry, and Sussex Counties, Va., including independent cities bounded by the above named counties, and Chesapeake, Nansemond, Newport News, Norfolk, Princess Anne, and Virginia Beach, Va. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E323), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B Explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Tuscarawas County, Ohio, within 50 miles of Steubenville, Ohio, on the one hand, and, on the other, points in Amelia, Amherst, Appomattox, Bedford, Brunswick, Buckingham, Carroll, Campbell, Charlotte, Chesterfield, Cumberland, Dinwiddie, Floyd, Franklin, Greensville, Halifax, Henry, Isle of Wight, Lunenburg, Mecklenburg, Nelson, Nottoway, Patrick, Pittsylvania, Powhatan, Prince Edward, Prince George, Southampton, Surry, Sussex Counties, Va., including independent cities bounded by the above named counties, and Chesapeake, Nansemond, Newport News, Norfolk, Princess Anne, and Virginia Beach, Va. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E354), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Virginia on and west of a line beginning at the Virginia-West Virginia State line at Virginia Highway 311 and extending along Virginia Highway 311 to junction Virginia Highway 42, thence along Virginia Highway 42 to junction Virginia Highway 100, thence along Virginia Highway 100 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction Virginia Highway 100, thence along Virginia Highway 100 to junction U.S. Highway 58, thence along U.S. Highway 58 to junction Virginia Highway 89, thence along Virginia Highway 89 to the Virginia-North Carolina State line, to those points in California, Idaho, Nevada, Oregon, and Washington on and west of a line beginning at the United States-Canada International Boundary line and extending along U.S. Highway 95 to junction Idaho Highway 200, thence along Idaho Highway 200 to junction U.S. Highway 2, thence along U.S. Highway 2 to the Idaho-Washington State line, thence along U.S. Highway 195 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction Idaho-Washington State line, thence along U.S. Highway 12 to junction Washington Highway 129, thence along Washington Highway 129 to junction unnumbered highway near Fields Spring, Wash., thence along unnumbered highway to the Washington-Oregon State line, thence along unnumbered Highway to junction Oregon Highway 82, thence along Oregon Highway 82 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction Oregon Highway 244, thence along Oregon Highway 244 to junction U.S. Highway 395, thence along U.S. Highway 395 to the Oregon-California State line, thence along the Oregon-California State line to the California-Nevada State line, thence along the California-Nevada State line to junction U.S. Highway 395, thence along U.S. Highway 395 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction U.S. Highway Alternate 95, thence along U.S. Highway Alternate 95 to junction U.S. Highway 95, thence along U.S. Highway 95 to junction Nevada Highway 10.

Thence along Nevada Highway 10 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Nevada-California State line, thence along U.S. Highway 6 to junction U.S. Highway 395, thence along U.S. Highway 395 to junction California Highway 58, thence along California Highway 58 to junction unnumbered highway near Barstow, Calif., thence along unnumbered highway to junction California Highway 18, near Lucerne Valley, Calif., thence along California Highway 18 to junction unnumbered highway near Baldwin Lake, Calif., thence along unnumbered highway to junction California Highway 62, thence along California Highway 62 to junction Interstate Highway 10, thence along Interstate Highway 10 to junction California Highway 111, thence along California Highway 111 to junction California Highway 74, thence along California Highway 74 to junction California Highway 71, thence along California Highway 71 to junction California Highway 79, thence along California Highway 79 to junction U.S. Highway 80, thence along U.S. Highway 80 to junction California Highway S–1, thence along California Highway S–1 to junction California Highway 94, thence along California Highway 94 to junction unnumbered highway near Tecate, Calif., thence along unnumbered highway to the United States-Mexico International Boundary line. The purpose of this filing is to eliminate the gateways of Lynchburg and Smyth County, Va.

No. MC 61825 (Sub-No. E355), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in North Carolina on and bounded by a line beginning at the North Carolina-South Carolina State line extending along U.S. Highway 321 to the south fork of the Catawba River near High Shoals, N.C., thence along the south fork of the Catawba River to junction North Carolina Highway 127, thence along North Carolina Highway 127 to junction U.S. Highway 321, thence along U.S. Highway 321 to junction U.S. Highway 321A, thence along U.S. Highway 321A to junction U.S. Highway 321, thence along U.S. Highway 321 to junction North Carolina Highway 268, thence along North Carolina Highway 268 to junction U.S. Highway 21, thence along U.S. Highway 21 to junction U.S. Highway 521, thence along U.S. Highway 521 to the North Carolina-South Carolina State line, thence along the North Carolina-South Carolina State line to point of beginning to points in Arizona, California, Colorado, Idaho, Montana, Nebraska, New Mexico, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming on and west of a line beginning at the United States-Canada International Boundary line at the North Dakota-Minnesota State line and extending along the North Dakota-Minnesota State line to the Minnesota-South Dakota State line, thence along the Minnesota-South Dakota State line to the South Dakota-Iowa State line, thence along the South Dakota-Iowa State line to the Nebraska-Iowa State line, thence along the Nebraska-Iowa State line to junction Interstate Highway 80, thence along Interstate Highway 80 to junction Nebraska Highway 15, thence along Nebraska Highway 15 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 81, thence along U.S. Highway 81 to the Nebraska-Kansas State line, thence along the Nebraska-Kansas State line to the Colorado-Oklahoma State line, thence along the Colorado-Oklahoma State line to the Oklahoma-New Mexico State line, thence along the Oklahoma-New Mexico State line to the New Mexico-Texas State line, thence along the New Mexico-Texas State line to junction U.S. Highway 70, thence along U.S. Highway 70 to junction New Mexico Highway 18, thence along New Mexico Highway 18 to junction U.S. Highway 380, thence along U.S. Highway 380 to junction New Mexico Highway 172, thence along New Mexico Highway 172 to junction U.S. Highway 82, thence along U.S. Highway 82 to junction New Mexico Highway 31, thence along New Mexico Highway 31 to junction New Mexico Highway 360, thence along New Mexico Highway 360 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction U.S. Highway 285, thence along U.S. Highway 285 to the Texas-New Mexico State line, thence along the Texas-New Mexico State line to the United States-Mexico Interna-

tional Boundary line. The purpose of this filing is to eliminate the gateways of Lynchburg and Smyth County, Va.

No. MC 61825 (Sub-No. E356), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in North Carolina on and bounded by a line beginning at the Virginia-North Carolina State line and extending along U.S. Highway 52 to junction U.S. Highway 311, thence along U.S. Highway 311 to junction U.S. Highway 220, thence along U.S. Highway 220 to the North Carolina-Virginia State line, thence along the North Carolina-Virginia State line to point of beginning to points in Delaware, District of Columbia, Illinois, Indiana, Iowa, Maryland, Michigan, Missouri, New Jersey, New York, Pennsylvania, and Wisconsin, and those points in Ohio and West Virginia on and north of a line beginning at the Indiana-Ohio State line and extending along the Ohio River to junction U.S. Highway 42 at Cincinnati, Ohio, thence along U.S. Highway 42 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction Ohio Highway 39, thence along Ohio Highway 39 to junction U.S. Highway 250, thence along U.S. Highway 250 to junction West Virginia Highway 2, thence along West Virginia Highway 2 to junction West Virginia Highway 20, thence along West Virginia Highway 20 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction U.S. Highway 250, thence along U.S. Highway 250 to the West Virginia-Virginia State line. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E357), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in North Carolina on and bounded by a line beginning at the Virginia-North Carolina State line and extending along U.S. Highway 220 to junction U.S. Highway 311, thence along U.S. Highway 311 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction North Carolina Highway 62, thence along North Carolina Highway 62 to junction North Carolina Highway 86, thence along North Carolina Highway 86 to the North Carolina-Virginia State line, thence along the North Carolina-Virginia State line to point of beginning, to points in Delaware, District of Columbia, Illinois, Indiana, Iowa, Maryland, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, and Wisconsin, and points in West Virginia (except points in Boone, McDowell, Mercer, Mingo, Monroe, Logan, Raleigh, Summers, and Wyoming, W. Va.). The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E358), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in North Carolina on and bounded by a line beginning at the Virginia-North Carolina State line and extending along North Caroline Highway 86 to junction North Carolina Highway 62, thence along North Carolina Highway 62 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction Interstate Highway 85, thence along Interstate Highway 85 to the North Carolina-Virginia State line, thence along the North Carolina-Virginia State line to the point of beginning, to points in Illinois, Indiana, Iowa, Michigan, Missouri, Ohio, and Wisconsin, and those points in New York, Pennsylvania, and West Virginia on and north and west of a line beginning at the Vermont-New York State line near Westport, N.Y., and extending along New York Highway 9N to junction New York Highway 73, thence along New York Highway 73 to junction New York Highway 86, thence along New York Highway 86 to junction New York Highway 3, thence along New York Highway 3 to junction New York Highway 30, thence along New York Highway 30 to junction New York Highway 8, thence along New York Highway 8 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction New York Highway 39, thence along New York Highway 39 to junction New York Highway 19A, thence along New York Highway 19A to junction New York Highway 19, thence along New York Highway 19 to junction New York Highway 17, thence along New York Highway 17 to junction New York Highway 305, thence along New York Highway 305 to junction Pennsylvania Highway 446, thence along Pennsylvania Highway 446 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction Pennsylvania Highway 949, thence along Pennsylvania Highway 949 to junction Pennsylvania Highway 968, thence along Pennsylvania Highway 968 to junction Pennsylvania Highway 28, thence along Pennsylvania Highway 28 to junction Pennsylvania Highway 66, thence along Pennsylvania Highway 66 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction U.S. Highway 250, thence along U.S. Highway 250 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction West Virginia Highway 39, thence along West Virginia Highway 39 to the West Virginia-Virginia State line. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E359), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, from points in North Carolina on and east of a line beginning at the Virginia-North Carolina State line and* extending along Interstate Highway 85 to junction U.S. Highway 70, thence along U.S. Highway 70 to the Atlantic Ocean to points in Illinois, Indiana, Iowa, Michigan, Missouri, and Wisconsin, and those points in Ohio and West Virginia on and west of a line beginning at Lake Erie and extending along Ohio Highway 301 to junction Ohio Highway 57, thence along Ohio Highway 57 to junction Ohio Highway 604, thence along Ohio Highway 604 to junction Ohio Highway 94, thence along Ohio Highway 94 to junction U.S. Highway 250, thence along U.S. Highway 250 to junction Ohio Highway 800, thence along Ohio Highway 800 to junction Ohio Highway 145, thence along Ohio Highway 145 to junction Ohio Highway 821, thence along Ohio Highway 821 to junction Interstate Highway 77, thence along Interstate Highway 77 to the Ohio River, thence along the Ohio River to St. Marys, W. Va., thence along West Virginia Highway 16 to junction West Virginia Highway 4, thence along West Virginia Highway 4 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction West Virginia Highway 41, thence along West Virginia Highway 41 to junction West Virginia Highway 20, thence along West Virginia Highway 20 to junction West Virginia 39, thence along West Virginia Highway 39 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction U.S. Highway 60, thence along U.S. Highway 60 to the West Virginia-Virginia State line. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E360), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in North Carolina on and bounded by a line beginning at the Atlantic Ocean and extending along U.S. Highway 421 to junction U.S. Highway 117, thence along U.S. Highway 117 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction U.S. Highway 17, thence along U.S. Highway 17 to the Neuse River, thence along the Neuse River to the Atlantic Ocean, thence along the Atlantic Coast to point of beginning, to points in Illinois, Indiana, Iowa, Michigan, Missouri, Ohio, and Wisconsin, and those points in Maryland, New York, Pennsylvania, and West Virginia on and west of a line beginning at the Vermont-New York State line and extending along New York Highway 73 to junction New York Highway 9N at Ticonderoga, N.Y.,

thence along New York Highway 9N to junction New York Highway 8, thence along New York Highway 8 to junction New York Highway 30, thence along New York Highway 30 to junction New York Highway 30A, thence along New York Highway 30A to junction New York Highway 7, thence along New York Highway 7 to junction New York Highway 17, thence along New York Highway 17 to junction New York Highway 14, thence along New York Highway 14 to junction New York Highway 328, thence along New York Highway 328 to junction Pennsylvania Highway 328, thence along Pennsylvania Highway 328 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction Pennsylvania Highway 287, thence along Pennsylvania Highway 287 to junction Pennsylvania Highway 414, thence along Pennsylvania Highway 414 to junction Pennsylvania Highway 44, thence along Pennsylvania Highway 44 to junction Pennsylvania Highway 664, thence along Pennsylvania Highway 664 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction Pennsylvania Highway 120, thence along Pennsylvania Highway 120 to junction Pennsylvania Highway 64, thence along Pennsylvania Highway 64 to junction Pennsylvania Highway 26, thence along Pennsylvania Highway 26 to junction U.S. Highway 322, thence along U.S. Highway 322 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction West Virginia Highway 28, thence along West Virginia Highway 28 to junction West Virginia Highway 55, thence along West Virginia Highway 55 to junction West Virginia Highway 259, thence along West Virginia 259 to the West Virginia-Virginia State line. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E361), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in North Carolina on and bounded by a line beginning at the Atlantic Ocean and extending along the North Carolina-South Carolina State line to junction U.S. Highway 301, thence along U.S. Highway 301 to junction U.S. Highway 70A, thence along U.S. Highway 70A to junction U.S. Highway 70, thence along U.S. Highway 70 to junction U.S. Highway 117, thence along U.S. Highway 117 to junction U.S. Highway 421, thence along U.S. Highway 421 to the Atlantic Ocean, thence along the Atlantic Coast to point of beginning, to points in Illinois, Indiana, Iowa, Michigan, Missouri, Ohio, and Wisconsin, and those points in Maryland, New York, Pennsylvania, and West Virginia on and west of a line beginning at the Massachusetts-New York State line and extending along New York Highway 23 to junction New York Highway 9G, thence along New York Highway 9G to junction New York Highway 199, thence along New York Highway 199 to junction New York Highway 28, thence along New York Highway 28 to junction New York Highway 30, thence along New York Highway 30 to junction New York Highway 17, thence along New York Highway 17 to junction Pennsylvania Highway 370, thence along Pennsylvania Highway 370 to junction Pennsylvania Highway 171, thence along Pennsylvania Highway 171 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 87, thence along Pennsylvania Highway 87 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction Pennsylvania Highway 64, thence along Pennsylvania Highway 64 to junction Pennsylvania Highway 445, thence along Pennsylvania Highway 445 to junction Pennsylvania Highway 192, thence along Pennsylvania Highway 192 to junction Pennsylvania Highway 144, thence along Pennsylvania Highway 144 to junction U.S. Highway 322, thence along U.S. Highway 322 to junction U.S. Highway 522, thence along U.S. Highway 522 to junction Interstate Highway 76, thence along Interstate Highway 76 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction West Virginia Highway 28, thence along West Virginia Highway 28 to junction West Virginia Highway 55, thence along West Virginia Highway 55 to junction West Virginia Highway 259 to the West Virginia-Virginia State line. The purpose of this filing is to eliminate the gateway of Martinsville,Va.

No. MC 61825 (Sub-No. E362), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in North Carolina on and bounded by a line beginning at the South Carolina-North Carolina State line and extending along U.S. Highway 301 to junction U.S. Highway 70A, thence along U.S. Highway 70A to junction U.S. Highway 70, thence along U.S. Highway 70 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction U.S. Highway 1, thence along U.S. Highway 1 to junction North Carolina Highway 177, thence along North Carolina Highway 177 to the North Carolina-South Carolina State line, thence along the North Carolina-South Carolina State line to point of beginning, to points in Illinois, Indiana, Iowa, Michigan, Missouri, New York, Ohio, and Wisconsin, and points in Maryland, New Jersey, Pennsylvania, and West Virginia on and north of a line beginning at the Hudson River and extending along Interstate Highway 95 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction New Jersey Highway 23, thence along New Jersey Highway 23 to junction Interstate Highway 84, thence along Interstate Highway 84 to junction Pennsylvania Highway 390, thence along Pennsylvania Highway 390 to junction Pennsylvania Highway 940, thence along Pennsylvania Highway 940 to junction Pennsylvania Highway 309, thence along Pennsylvania Highway 309 to junction Pennsylvania Highway 93, thence along Pennsylvania Highway 93 to junction Interstate Highway 81, thence along Interstate Highway 81 to junction Pennsylvania Highway 61, thence along Pennsylvania Highway 61 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction Pennsylvania Highway 35, thence along Pennsylvania Highway 35 to junction Pennsylvania Highway 333, thence along Pennsylvania Highway 333 to junction Pennsylvania Highway 75, thence along Pennsylvania Highway 75 to junction Pennsylvania Highway 74, thence along Pennsylvania Highway 74 to junction Interstate Highway 81, thence along Interstate Highway 81 to the West Virginia-Virginia State line, thence along the West Virginia-Virginia State line to the West Virginia-Kentucky State line, thence along the West Virginia-Kentucky State line to the West Virginia-Ohio State line. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E363), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in North Carolina on and bounded by a line beginning at the South Carolina-North Carolina State line and extending along North Carolina Highway 177 to junction U.S. Highway 1, thence along U.S. Highway 1 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction U.S. Highway 52, thence along U.S. Highway 52 to the North Carolina-South Carolina State line, thence along the North Carolina-South Carolina State line to point of beginning, to points in Illinois, Indiana, Iowa, Michigan, Missouri, New Jersey, New York, Ohio, Wisconsin, and West Virginia except points in Boone, McDowell, Mercer, Mingo, Monroe Logan, Raleigh, Summers, and Wyoming Counties, W. Va. and points in Delaware, Maryland, and Pennsylvania on and northwest of a line beginning at the Delaware-New Jersey State line and extending along Delaware Highway 41 to junction Pennsylvania Highway 41, thence along Pennsylvania Highway 41 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Pennsylvania Highway 116, thence along Pennsylvania Highway 116 to junction Pennsylvania Highway 194, thence along Pennsylvania Highway 194 to junction Maryland Highway 194, thence along Maryland Highway 194 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Maryland-Virginia State line. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E364), filed May 13, 1974. Applicant: ROY STONE

TRANSFER CORP., P.O. Box 385, Collinesville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in North Carolina on and bounded by a line beginning at Lexington, N.C., and extending along North Carolina Highway 8 to junction North Carolina Highway 47, thence along North Carolina Highway 47 to junction North Carolina Highway 109, thence along North Carolina Highway 109 to junction North Carolina Highway 24, thence along North Carolina Highway 24 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction U.S. Highway 70, thence along U.S. Highway 70 to point of beginning, to points in Delaware, the District of Columbia, Illinois, Indiana, Iowa, Maryland, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, and Wisconsin, and those points in West Virginia on and north of a line beginning at the Kentucky-West Virginia State line and extending along U.S. Highway 119 to junction West Virginia Highway 10, thence along West Virginia Highway 10 to junction West Virginia Highway 85, thence along West Virginia Highway 85 to junction West Virginia Highway 99, thence along West Virginia Highway 99 to junction West Virginia Highway 3, thence along West Virginia Highway 3 to junction U.S. Highway 19, thence along U.S. Highway 19 to the Fayette-Raleigh County line, thence along the Fayette-Raleigh County line to the Fayette-Summers County line, thence along the Fayette-Summers County line to the Greenbrier-Summers County line, thence along the Greenbrier-Summers County line to the Greenbrier-Monroe County line, and thence along the Greenbrier-Monroe County line to the West Virginia-Virginia State line. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E365), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from West End, N.C., to points in Delaware, District of Columbia, Illinois, Indiana, Iowa, Maryland, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, West Virginia, and Wisconsin. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub E573), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, MacDonald & McInerny, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: General commodities, except those of unusual value, Classes A and B Explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in North Carolina on and north of a line beginning at the Virginia-North Carolina State line and extending along U.S. Highway 52 to junction Interstate Highway 40, thence east along Interstate Highway 40 to junction U.S. Highway 70, thence east along U.S. Highway 70 to junction Interstate Highway 85 near Durham, North Carolina, thence north along Interstate Highway 85 to the Virginia-North Carolina State line, on the one hand, and, on the other, points in Virginia on and bounded by a line beginning at the West Virginia-Virginia State line and extending along U.S. Highway 250 to junction Virginia Highway 42, thence south along Virginia Highway 42 to junction Virginia Highway 39, thence east along Virginia Highway 39 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction U.S. Highway 60, thence east along U.S. Highway 60 to junction U.S. Highway 501, thence along U.S. Highway 501 to junction U.S. Highway 29, thence north along U.S. Highway 29 to junction U.S. Highway 250, thence east along U.S. Highway 250 to junction Virginia Highway 22, thence along Virginia Highway 22 to junction Virginia Highway 231, thence along Virginia Highway 231 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Maryland-Virginia State line, thence west along the Virginia-Maryland State line to the Virginia-West Virginia State line, thence southwest along the Virginia-West Virginia State line to the point of beginning. The purpose of this filing is to eliminate the gateway of Lynchburg, Va.

No. MC 61825 (Sub E574), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, MacDonald & McInerny, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General Commodities*, except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in North Carolina on and bounded by a line beginning at the Tennessee-North Carolina State line and extending south along U.S. Highway 421 to junction U.S. Highway 321, thence south along U.S. Highway 321 to junction North Carolina Highway 16, thence south along North Carolina Highway 16 to junction Interstate Highway 85, thence north along Interstate Highway 85 to junction Interstate Highway 40, thence west along Interstate Highway 40 to junction U.S. Highway 52, thence north along U.S. Highway 52 to the North Carolina-Virginia State line, thence west along the North Carolina-Virginia State line to the North Carolina-Tennessee State line, thence south along the North Carolina-Tennessee state line, to point of beginning, on the one hand, and, on the other, points in Virginia on and north of a line beginning at the West Virginia-Virginia State line and extending east along U.S. Highway 250, to junction State Highway 42, thence south along Virginia Highway 42, to junction Virginia Highway 39, thence east along Virginia Highway 39 to junction U.S. Highway 11, thence south along U.S. Highway 11 to junction U.S. Highway 60, thence east along U.S. Highway 60 to junction U.S. Highway 501, thence south along U.S. Highway 501 to junction U.S. Highway 221, thence west along U.S. Highway 221 to junction Virginia Highway 811, thence along Virginia Highway 811 to junction Virginia Highway 24, thence east along Virginia Highway 24 to junction U.S. Highway 501, thence east along U.S. Highway 501 to junction Virginia Highway 24, thence east along Virginia Highway 24 to junction U.S. Highway 460, thence east along U.S. Highway 460 to junction Virginia Highway 307, thence along Virginia Highway 307 to junction U.S. Highway 360, thence north along U.S. Highway 360 to junction Interstate Highway 64, thence east along Interstate Highway 64 to junction Virginia Highway 33, thence east along Virginia Highway 33 to the York River, thence south along the York River to the Chesapeake Bay, thence along the Chesapeake Bay to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of Lynchburg, Va.

No. MC 61825 (Sub E575), filed May 13, 1974. Applicant: STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, MacDonald & McInerny, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: General commodities, except those of unusual value, Classes A and B Explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in North Carolina on and southwest of a line beginning at the Tennessee-North Carolina State line and extending south along U.S. Highway 421 to junction U.S. Highway 321, thence south along U.S. Highway 321 to junction North Carolina Highway 16, thence south along North Carolina Highway 16 to junction Interstate Highway 77, thence south along Interstate Highway 77 to the North Carolina-South Carolina State line, on the one hand, and, on the other, points in Virginia on and north of a line beginning at the West Virginia-Virginia State line and extending east along Virginia Highway 39 to junction U.S. Highway 11, thence south along U.S. Highway 11 to junction U.S. Highway 60, thence east along U.S. Highway 60 to junction

U.S. Highway 501, thence south along U.S. Highway 501 to junction U.S. Highway 221, thence west along U.S. Highway 221 to junction Virginia Highway 811, thence along Virginia Highway 811 to junction Virginia Highway 24, thence east along Virginia Highway 24 to junction U.S. Highway 501, thence east along U.S. Highway 501 to junction Virginia Highway 24, thence east along Virginia Highway 24 to junction U.S. Highway 460, thence east along U.S. Highway 460 to junction Virginia Highway 36, thence east along Virginia Highway 36 to junction Virginia Highway 10, thence east along Virginia Highway 10 to junction Virginia Highway 156, thence north along Virginia Highway 156 to the James River, thence south along the James River to the Chesapeake Bay, thence along the Chesapeake Bay to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of Lynchburg, Va.

No. MC 61825 (Sub E576) Filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's Representative: Joe Clyde Wilson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B Explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in North Carolina on and bounded by a line beginning at the South Carolina-North Carolina State line and extending north along Interstate Highway 77 to junction Interstate Highway 85, thence north along Interstate Highway 85, to junction U.S. Highway 70 at Greensboro, North Carolina, thence east along U.S. Highway 70 to junction Alternate U.S. Highway 70 near Selma, North Carolina, thence along Alternate U.S. Highway 70 to junction U.S. Highway 301, thence south along U.S. Highway 301 to the North Carolina-South Carolina State line to point of beginning, on the one hand, and, on the other, points in Virginia on and bounded by a line beginning at the West Virginia-Virginia State line and extending east along Virginia Highway 39 to junction U.S. Highway 11, thence south along U.S. Highway 11 to junction Virginia Highway 43, thence south along Virginia Highway 43 to junction the Blue Ridge Parkway, thence east along the Blue Ridge Parkway to junction Virginia Highway 43, thence south along Virginia Highway 43 to junction Virginia Highway 24, thence east along U.S. Highway 501 to junction Virginia Highway 24, thence east along U.S. Highway 24 to junction U.S. Highway 460, thence east along U.S. Highway 460 to junction Virginia Highway 24, thence along Virginia Highway 24 to junction Virginia Highway 636, thence along Virginia Highway 636 to junction Virginia Highway 640, thence along Virginia Highway 640 to junction U.S. Highway 15, thence north along U.S. Highway 15 to junction Virginia Highway 28, thence north along Virginia Highway 28 to junction U.S. Highway 29, thence east along U.S. Highway 29 to junction Interstate Highway 495, thence north along Interstate Highway 495 to the Virginia-Maryland State line, thence west along the Virginia-Maryland State line to the Virginia-West Virginia State line, thence southwest along the Virginia-West Virginia State line to the point of beginning. The purpose of this filing is to eliminate the gateway of Lynchburg, Va.

By the Commission.

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

[FR Doc.75-29036 Filed 10-28-75;8:45 am]

federal register

WEDNESDAY, OCTOBER 29, 1975

PART II:

INTERSTATE COMMERCE COMMISSION

■

UNIFORM SYSTEMS OF ACCOUNTS, DESTRUCTION OF RECORDS; RECORDS AND REPORTS

Preservation of Records

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER C—ACCOUNTS, RECORDS AND REPORTS

[No. 36210]

UNIFORM SYSTEMS OF ACCOUNTS, DESTRUCTION OF RECORDS, AND RECORDS AND REPORTS

Preservation of Records

Decided: October 14, 1975.

Service Date: October 29, 1975.

Certain revised regulations governing preservation of records by all carriers (49 CFR 1220–1239) and ratemaking organizations (49 CFR 1253) subject to the Interstate Commerce Act are adopted to be effective with service of this order.

Report of the Commission. The purpose of the changes set forth below is to revise the regulations governing the destruction of records by carriers and ratemaking organizations under our jurisdiction. The following types of changes are made:

1. The present regulations are consolidated into a single set of general instructions and record retention schedules.

2. Microfilming of any record at any time is allowed provided certain basic requirements are met.

3. Retention periods of many records are reduced.

The significant change is the allowing of immediate microfilming of any record. Previously, our regulations have allowed microfilm copy for most records, but many records had to be either retained permanently in original form, or for a minimum number of years in original form before microfilm could replace them. The regulations set forth below retain the basic requirements for any photographic copy as to quality, accessibility, and reader-reproduction capability.

The reduced retention periods are for the most part the result of consolidating the regulations. The period selected for a particular record was generally the lowest period prescribed for any one mode. This insures that the rules are uniformly applied to all companies.

We do not consider the changes burdensome because they represent an easing of our recordkeeping requirements. Therefore, public proceedings under sections 553 and 559 of the Administrative Procedure Act, 5 U.S.C. 553, 559, are not necessary.

We find that Parts 1220–1239 of Chapter X of Title 49 of the Code of Federal Regulations should be amended to reflect the modifications as set forth below; that such rule changes are reasonable and necessary to the effective enforcement of the provisions of the Interstate Commerce Act, as amended; that such rules, as modified, are otherwise lawful and consistent with the public interest and the National Transportation Policy; that this is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

An appropriate order will be entered.

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 14th day of October, 1975.

Consideration having been given to the matters and things involved in this proceeding, and the said Commission, on the date thereof, having made and filed a report herein containing its findings and conclusions, which report is hereby made a part hereof:

It is ordered, That, effective with service of this order, the regulations prescribed in Parts 1201–1210, 1220–1239, 1253 of Chapter X, Subchapter C of Title 49 of the Code of Federal Regulations be, and they are hereby, revised to read as set forth below.

It is further ordered, That service of this order shall be made on all affected carriers; and to the Governor of every State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation; 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 a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

(49 U.S.C. 5b, 12, 20, 304, 320, 904, 913, 917, 1003, and 1012)

By the Commission.

Decided: October 14, 1975.

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

NOTE.—This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Parts 1201–1210, Uniform Systems of Accounts, are amended as follows:

PART 1201—RAILROAD COMPANIES

General Instructions

1. Instruction 1–3 *Records* is amended by revising paragraph (c) to read:

1–3 Records.

* * * * *

(c) No carrier shall destroy any books, records, memoranda, etc., which support entries to its accounts unless destruction is permitted by the regulations governing preservation of records, Part 1220 of this chapter.

* * * * *

PART 1202—ELECTRIC RAILWAYS

2. Instruction 00–1 *Classification of carriers* is amended by adding a new paragraph to read:

00–1 Classification of carriers.

* * * * *

Class II and III companies * * * provided for herein.

No carrier shall destroy any books, records, memoranda, etc, which support entries to its accounts unless destruction is permitted by the regulations governing preservation of records, Part 1220 of this chapter.

* * * * *

PART 1203—EXPRESS COMPANIES

GENERAL INSTRUCTIONS

3. Instruction 1–3 *Records* is amended by revising paragraph (d) to read:

1–3 Records.

* * * * *

(d) No carrier shall destroy any books, records, memoranda, etc., which support entries to its accounts unless destruction is permitted by the regulations governing preservation of records, Part 1220 of this chapter.

PART 1204—PIPELINE COMPANIES

GENERAL INSTRUCTIONS

4. Instruction 1–2 *Records* is amended by revising paragraph (c) to read:

1–2 Records.

* * * * *

(c) No carrier shall destroy any books, records, memoranda, etc., which support entries to its accounts unless destruction is permitted by the regulations governing preservation of records, Part 1220 of this chapter.

PART 1205—REFRIGERATOR CAR LINES

GENERAL INSTRUCTIONS

5. Instruction 4 *Records* is amended by revising paragraph (c) to read:

4 Records.

* * * * *

(c) No carrier shall destroy any books, records, memoranda, etc., which support entries to its accounts unless destruction is permitted by the regulations governing preservation of records, Part 1220 of this chapter.

PART 1206—COMMON AND CONTRACT MOTOR CARRIERS OF PASSENGERS

INSTRUCTIONS

6. Instruction 2–2 *Records* is amended by revising paragraph (c) to read:

2–2 Records.

* * * * *

(c) No carrier shall destroy any books, records, memoranda, etc., which support entries to its accounts unless destruction is permitted by the regulations governing preservation of records, Part 1220 of this chapter.

* * * * *

PART 1207—CLASS I AND CLASS II COMMON AND CONTRACT MOTOR CARRIERS OF PROPERTY

CLASS I AND CLASS II MOTOR CARRIERS INSTRUCTIONS

7. Instruction 2 *Records* is amended by revising paragraph (d) to read:

2 Records.

* * * * *

(d) No carrier shall destroy any books, records, memoranda, etc., which support entries to its accounts unless destruction is permitted by the regulations governing preservation of records, Part 1220 of this chapter.

* * * * *

PART 1208—MARITIME CARRIERS

General Instructions

8. Instruction (B) *Records* is amended by adding a new paragraph to read:

(B) **Records.**

* * * * *

(7) No carrier shall destroy any books, records, memoranda, etc., which support entries to its accounts unless destruction is permitted by the regulations governing preservation of records, Part 1220 of this chapter.

PART 1209—INLAND AND COASTAL WATERWAYS CARRIERS

General Instructions

9. Instruction 1 *Records* is amended by revising paragraph (d) to read:

1 **Records.**

* * * * *

(d) No carrier shall destroy any books, records, memoranda, etc., which support entries to its accounts unless destruction is permitted by the regulations governing preservation of records, Part 1220 of this chapter.

* * * * *

PART 1210—FREIGHT FORWARDERS

General Instructions

10. Instruction 1 *Records* is amended by revising paragraph (d) to read:

1 **Records.**

* * * * *

(d) No carrier shall destroy any books, records, memoranda, etc., which support entries to its accounts unless destruction is permitted by the regulations governing preservation of records, Part 1220 of this chapter.

* * * * *

Parts 1220–1239 DESTRUCTION OF RECORDS, as amended as follows:

11. The title "PARTS 1220–1239 DESTRUCTION OF RECORDS" is revised to read:

PARTS 1220–1239—PRESERVATION OF RECORDS

12. Part 1220, "RAILROAD COMPANIES," is revised to read:

PART 1220—PRESERVATION OF RECORDS

Sec.

AUTHORITY: Sec. 5a(3), 62 Stat. 472; 49 U.S.C. 5b; Secs. 12, 20, 24 Stat. 383 as amended, 386, as amended; 49 U.S.C. 12, 20; Secs. 204, 220, 49 Stat. 546 as amended, 563, as amended; 49 U.S.C. 304, 320; Secs. 304, 313, 317, 54 Stat. 933, 944, as amended; 49 U.S.C. 904, 913, 917; and Secs. 403, 412, 56 Stat. 285, as amended; 294, as amended; 49 U.S.C. 1003, 1012 unless otherwise indicated.

§ 1220.0 Applicability.

Before destroying any operating, accounting, or financial papers, records, books, blanks, tickets, stubs, correspondence, reports, or documents the following companies and persons subject to the provisions of the Interstate Commerce Act shall comply with the regulations in this part:

Railroad companies
Electric railway companies
Express companies
Pipeline companies
Persons furnishing cars to railroads
Motor carriers and brokers
Water carriers
Freight forwarders
Rate-making organizations

This part applies also to the preservation of accounts, records, and memoranda of traffic associations, demurrage and car service bureaus, weighing and inspection bureaus, and other joint activities maintained by or on behalf of companies listed in the above paragraph of this subpart.

§ 1220.1 Purpose.

The regulations in this part prescribe the minimum length of time records shall be preserved, after which they may be destroyed. Mention of a record imposes no requiremnt that such a record be maintained if the information recorded is not requested by provisions of the Interstate Commerce Act or this Commission, or if its purpose is otherwise being adequately served. The provisions of this part shall not be construed as excusing compliance with the lawful requirements of any other governmental body, Federal or State, prescribing longer retention periods for any category of records.

§ 1220.2 Designation of supervisory official.

(a) Each company subject to the provision of this part shall appoint an officer or other responsible employee to supervise the preservation and authorized destruction of records. Such appointment shall be by formal corporate act of the Board of Directors or its executive committee or, if the company is not incorporated, by formal designation of the owners.

(1) Designation may be made by title only, rather than by name and title, and thus obviate the necessity for a new resolution or order each time a successor is appointed.

(b) If the property of the company is in the hands of a trustee, executor, administrator, or assignee, the officer or other responsible employee supervising the preservation and destruction of records shall be designated by such trustee, executor, administrator, or assignee.

(c) Authority to supervise the destruction of company records maintained by an association, joint bureau, etc. may be delegated to the manager or other chief officer.

(d) A company, at its option, may by a formal act of appointment delegate to a bank, trust company, or similar institution having custody of its records in the normal course of business, the authority to destroy such records upon compliance with the requirements of regulations in this part.

(e) Copies of the resolution or orders of appointment need not be filed with the Commission but shall be available for inspection by the Commission's duly authorized representatives.

§ 1220.3 Index of records.

At each office where records are kept or stored, such records shall be so arranged, filed, and currently indexed that they may be readily identified and made available to representatives of the Commission. In the company's general offices a master index shall be available showing the physical location of the various classes of records, the periods to which they relate, and the locations, names, and titles of the custodians.

§ 1220.4 Protection and storage of records.

The company shall protect records subject to the regulations in this part from fires, floods, and other hazards and safeguard the records from unnecessary exposure to deterioration from excessive humidity, dryness, or lack of ventilation.

§ 1220.5 Preservation of records.

(a) All records listed in § 1220.10 may be preserved in either hard-copy paperstock or nonerasable microfilm (see § 1220.7). However, a paperstock or microfilm record need not be created to satisfy the requirements of this part if the particular records are initially prepared on nonerasable media such as punched cards, magnetic tapes and disks. The records maintained in nonreadable media and the underlying data used in their preparation shall be preserved for the periods prescribed in § 1220.10. In no case shall a paperstock or microfilm record be destroyed after transfer to nonreadable media before expiration of the prescribed periods of retention without Commission approval (see § 1220.6).

(b) Each nonreadable form of media shall be accompanied by a statement clearly indicating the type of data included in the media and certifying that the information contained therein is complete and accurate. This statement shall be executed by a person having personal knowledge of the facts contained in the records. The records shall be indexed and retained in such a manner as will render them readily accessible, and the company shall have facilities available to locate, identify and reproduce the records on paper similar in size to the original without loss of clarity.

§ 1220.6 Destruction of records.

(a) *General authority.* Records described in these regulations may be destroyed after having been preserved for the prescribed periods.

(b) *Special authority.* Special authority is required before records described in these regulations may be destroyed prior to the end of the prescribed retention periods. Applications for special authority must describe in detail the nature and purpose of the records in question and the reasons continued retention is no longer considered necessary (see § 1220.9).

(c) *Method of destruction.* These regulations require that records be preserved for specified periods. Upon expiration of these periods, records may be destroyed in any manner if the company so elects. Precaution should be taken, however, to shred or otherwise destroy the legibility of any records, the content of which is forbidden by law to be divulged to unauthorized persons.

(d) *Premature destruction or loss of records.* When records are destroyed or lost before the expiration of the prescribed retention periods, a statement shall be prepared listing, as accurately as possible, the records destroyed or lost and describing the circumstances under which they were destroyed or lost. The statement shall be certified by an officer of the carrier and filed with the officer having supervision over preservation of records. A copy of the statement shall also be filed with the Secretary's Office of this Commission within ninety (90) days from the discovery of the premature destruction or loss.

§ 1220.7 Photographic copies.

(a) Any record may be transferred to nonerasable microfilm (including microfiche, computer output microfilm, and aperture cards) at any time. Records so maintained on microfilm shall satisfy the minimum requirements listed in paragraphs (b) through (f) of this section.

(b) The microfilm used shall be of a quality that can be easily read and that reproduction in paperstock can be similar in size of an original without loss of clarity of detail during the periods the records are required to be retained in § 1220.10.

(c) Microfilm records shall be indexed and retained in such a manner as will render them readily accessible, and the company shall have facilities available to locate, identify and read the microfilm and reproduce in paper form.

(d) Any significant characteristic, feature, or other attribute which microfilm will not preserve shall be clearly indicated at the beginning of each roll of film or series of microfilm records if applicable to all records on the roll or series, or on the individual record, as appropriate.

(e) The printed side of printed forms need not be microfilmed for each record if nothing has been added to the printed matter common to all such forms, but an identified specimen of the form shall be on the film for reference.

(f) Each roll of film or series of microfilm records shall include a microfilm of a certificate stating that the photographs are direct and facsimile reproductions of the original records and they have been made in accordance with prescribed regulations. Such a certificate shall be executed by a person having personal knowledge of the facts covered thereby. Where the microfilm is computer output microfilm the certificate shall state that the information is complete and accurate.

§ 1220.8 Companies going out of business.

The records referred to in these regulations may be destroyed after business is discontinued and the company is completely liquidated. The records may not be destroyed until dissolution is final and all transactions are completed. When a company is merged with another company under jurisdiction of the Commission, the successor company shall preserve records of the merged company in accordance with these regulations.

§ 1220.9 Waiver of requirements of these regulations.

A waiver from any provision of these regulations may be made by the Commission upon its own initiative or upon submission of a written request by the company. Each request for waiver shall demonstrate that unusual circumstances warrant a departure from prescribed retention periods, procedures, or techniques, or that compliance with such prescribed requirements would impose an unreasonable burden on the company.

§ 1220.10 Schedule of records and periods of retention.

The following schedule shows periods that designated records shall be preserved. The descriptions specified under the various general headi gs are for convenient reference and identification, and are intended to apply to the items named regardless of where records are filed and regardless of departmental organization. Records other than those listed below may be destroyed at the option of the company *provided* such records used in place of those listed are preserved for the periods prescribed for the records used for substantially similar purposes.

Schedule of records and periods of retention

Item	Category of records	Retention period
	A. CORPORATE AND GENERAL	
1	Incorporation and reorganization:	
	(a) Charter or certificate of incorporation and amendments	Permanently.
	(b) Legal documents related to mergers, consolidations, reorganization, receiverships and similar actions which affect the identity or organization of the company.	Do.
2	Minutes of Directors', Executive Committees', Stockholders', and other corporate meetings.	Do.
3	Corporate elections:	
	(a) Proxies of holders of voting securities	2 years.
	(b) Lists of holders of voting securities represented at meetings	Do.
	(c) Ballots cast and tabulations of votes	Do.
	(d) Judges' reports of election results	Do.
	(e) Qualification oaths of judges of election	Optional.
	(f) Qualification oaths of directors	Do.
4	Titles, franchises and authorities:	
	(a) Certificates of public convenience and necessity issued by regulating bodies.	Until expiration or cancellation.
	(b) Operating authorizations and exemptions to operate issued by regulating bodies.	Do.
	(c) Copies of formal orders of regulatory bodies served upon the company	1 year after expiration or cancellation.
	(d) Deeds, charters, and other title papers	3 years after disposition of property.
	(e) Patents and patents records	1 year after expiration.
5	Annual reports or statements to stockholders, file copies of	10 years.
6	Contracts and agreements:	
	(a) Contracts and related papers for transactions which are subject to the provisions of the Clayton Antitrust Act (15 USC 20).	10 years after expiration, provided there is no pending litigation involved, and provided the company notifies the Commission of its intended action 2 weeks prior to date the records are to be destroyed.
	(b) Service contracts, such as for operational management, accounting, financial or legal service, and agreements with agents.	3 years after expiration or termination.
	(c) Contracts and other agreements relating to the construction, acquisition or sale of real property and equipment except as otherwise provided in (a) above.	Do.
	(d) Contracts for the purchase or sale of material and supplies except as provided in (a) above.	1 year after expiration or termination.
	(e) Shipping contracts for transportation of caretakers of freight	Do.
	(f) Contracts with employees and employee bargaining groups	Do.
	(g) Contracts, leases and agreements, not specifically provided for in this section.	3 years after expiration or termination.
7	Accountant's, auditor's, and inspector's reports:	
	(a) Certifications and reports of examinations and audits conducted by public and certified public accountants.	3 years.
	(b) Reports of examinations and audits conducted by internal auditors, time inspectors, weight inspectors, and others.	Do.
	B. TREASURY	
1	Capital stock records:	
	(a) Capital stock ledger	6 years.
	(b) Capital stock certificates, records of or stubs of. Note: If the information shown on the stubs is recorded in item 1(a), the stubs are required to be retained 3 years.	Do.
	(c) Stock transfer register	Do.
	(d) Memoranda and bills of sale or transfer of capital stock	2 years.
	(e) Capital stock subscription notices and requests for allotments	1 year.
	(f) Cancelled capital stock certificates	Optional.

Item	Category of records	Retention period
2	Long-term debt records:	
	(a) Bond indentures, underwriting, mortgage, and other long-term credit agreements.	6 years after redemption.
	(b) Registered bond and debenture ledgers	Do.
	(c) Stubs or similar records of bonds or other long-term debt issued. Note: If the information shown on the stubs is recorded in item 2(b), the stubs are required to be retained 3 years.	Do.
	(d) Funded debt subscription notices and requests for allotment	1 year.
	(e) Records of interest paid and unpaid	2 years.
	(f) Data pertaining to or supporting transfer of bonds or other long-term debt.	Do.
	(g) Cancelled and unissued bonds, mortgages, notes or other long-term debt issued.	Optional.
3	Filings with an authorization by regulatory agencies:	
	(a) Authorizations from regulatory bodies for issuance of securities including applications, reports and supporting papers.	20 years or until all securities covered are retired whichever is shorter.
	(b) Copies of registration statements and other data filed with the Securities and Exchange Commission and supporting papers in connection with offerings of securities for sale to the public or the listing of securities on an exchange.	6 years.
4	Records of securities owned, in treasury, or held by custodians, detailed ledgers and journals, or their equivalent.	3 years after the securities are sold, redeemed or otherwise disposed of.
5	Retired securities: stock certificates, bonds, notes, interest coupons, receiver's and trustee's certificates, and temporary certificates taken up and cancelled.	Optional.
6	Records of Funds and Deposits:	
	(a) Statements and summaries of balances on hand and with depositaries	3 years.
	(b) Depositaries statements of funds received, disbursed, and transferred	Do.
	(c) Authorities and statements for transfers between depositaries	Do.
	(d) Records of outstanding vouchers, checks, drafts, etc., issued and not presented.	Do.
	(e) Bank deposit books, stubs, ledgers, or records of checks	Do.
	(f) Supporting data for postings of miscellaneous receipts and payments of funds.	Do.
	(g) Cash remittance reports of superintendents, agents, and others	Do.
	(h) Records of verifications of treasurer's cash, or securities	2 years.
	(i) Copies of deposit slips	Do.
	(j) Periodical statements of working cash balances	Optional.
	(k) Lists of vouchers, drafts, and checks showing mailing dates	Do.
7	Records of foreign exchange or commercial paper purchased	3 years.
	C. FINANCIAL AND ACCOUNTING	
1	Ledgers:	
	(a) General and subsidiary ledgers with indexes thereto	50 years.
	(b) Balance sheets and trial balance sheets of general and subsidiary ledgers.	5 years.
2	Journals:	
	(a) General journals	50 years.
	(b) Subsidiary journals and any supporting data, except as otherwise provided for, necessary to explain journal entries.	6 years.
	(c) Schedules of recurring or standard journal entries with entry identifications.	Until superseded.
3	Cash books:	
	(a) General cash books	10 years.
	(b) Subsidiary cash books	6 years.
4	Vouchers:	
	(a) Voucher registers or equivalent	6 years.
	(b) Paid and cancelled vouchers, expenditure authorizations, detailed distribution sheets and other supporting data including original bills and invoices, except as otherwise provided herein.	Do.
	(c) Vouchers indexes	3 years.
	(d) Paid drafts, paid checks, and receipts for cash paid out	6 years.
5	Accounts receivable:	
	(a) Record or register of accounts receivable, indexes thereto, and summaries of distribution.	3 years after settlement.
	(b) Bills issued for collection and supporting data	Do.
	(c) Reports and statements showing age and status of receivables	1 year.
	(d) Authorizations for writing off receivables	Do.
6	Records of accounting codes and instructions	6 years after discontinuance
	D. PROPERTY AND EQUIPMENT	
	NOTE.—All accounts, records, and memoranda necessary for making a complete analysis of the cost or value of property shall be retained for the periods shown. If any of the records elsewhere provided for in this schedule are of this character, they shall be retained for the periods shown below, regardless of any lesser retention period assigned.	
1	Property records:	
	(a) Records which maintain complete information on cost or other value of all real and personal property or equipment.	3 years after disposition of property.
	(b) Records of additions and betterments made to property and equipment	Do.
	(c) Records pertaining to retirements and replacements of property and equipment.	Do.
	(d) Records pertaining to depreciation:	
	(1) When group method and depreciation rates are prescribed by the Commission.	10 years.
	(2) Other	3 years after disposition of property.
	(e) Records of equipment number changes	Do.
	(f) Records of motor and engine changes	Do.
	(g) Records of equipment lightweighed and stenciled	Do.
	(h) Files of detailed authorizations for expenditures, work or job orders showing estimated costs of additions and betterments, extensions, replacements, major repairs and dismantlements, approved by proper officials, together with all supporting data.	3 years.
	(i) Periodical inventories of property and equipment	3 years after prior inventory.
	(j) Estimates, detail records, and other data for proposed expenditures pertaining to projects not put into execution.	Optional.
2	Engineering Records:	
	(a) Plans, specifications, estimates of work, engineering studies, construction bids, and similar data pertaining to property changes actually made.	3 years after disposition of property.
	(b) Plans, specifications, estimates of work, engineering studies, experimental work, and similar data pertaining to projects not executed.	Optional.

Item	Category of records	Retention period
	E. PERSONNEL AND PAYROLL	
1	Personal Records:	
	(a) Applications for employment, reports and certificates of physical examinations, service records, efficiency tests, qualification records, employees' rosters and other similar employee records.	1 year after termination of service.
	(b) Records of Employees' relief hospital, welfare and pension insurance and savings, and workmen's compensation accident reports.	1 year.
	(c) Applications for employment and replies thereto not resulting in employment of applicant.	Optional.
	(d) Files and records containing assignments, attachments, and garnishments of employees' salaries or wages, notice of suits, releases and correspondence incident thereto.	1 year.
2	Payroll records:	
	(a) Registers, abstracts, or summaries showing earnings, deductions and amounts paid to each employee by pay periods.	3 years.
	(b) Records showing the detailed distribution of salaries and wages to various accounts.	Do.
	(c) Receipted payrolls, endorsed pay checks or drafts, receipts, time tickets, certificates issued for wages, discharged tickets, and other evidences of payment for services rendered by employees.	Do.
	(d) Records of annuities of pensions paid to retired employees and records of death benefits paid to beneficiaries of deceased employees.	Do.
	(e) Time books, time cards, time sheets and summaries thereof, time slips, predetermined working schedules, overtime tickets, delayed time tickets, work orders, job tickets, check rolls and other records and papers pertaining to service of officers and employees.	Do.
	(f) Records, reports, and memoranda concerning deductions from payrolls	Optional.
	(g) Applications and authorities for changes in payrolls	Do.
	(h) Cancelled pay checks or drafts drawn in favor of employees in payment of wages for which receipt is shown on payrolls or other records retained.	Do.
	(i) Comparative, analytical, or other statistical statements of pay	Do.
	(j) Receipts for payrolls and pay checks forwarded to agents and others for distribution to employees.	Do.
	F. INSURANCE AND CLAIMS	
1	Insurance records:	
	(a) Schedules of insurance against fire, storm, and other hazards and record of premium payments.	3 years.
	(b) Records of losses and recoveries from insurance companies and supporting papers.	3 years after settlement.
	(c) Records and files of fidelity bonds of employees and others responsible for funds.	1 year after expiration of coverage.
	(d) Records and files of indemnity bonds incident to transportation and other charges.	Do.
	(e) Insurance policies	Optional after expiration or coverage.
	(f) Inspectors' reports of conditions of insured property	Optional when superseded.
	(g) Schedules of risks covered by self-insurance	2 years.
	(h) Reports to insurers of accidents or losses, and all correspondence and memoranda in connection therewith.	Do.
	(i) Letter and telegraphic reports of damages by fire, collision, etc.	Do.
	(j) Reports of minor losses not covered by insurance or less than the minimum amount collectable.	Do.
2	Claims records:	
	(a) Claim registers, card or book indexes, and other records which record personal injury, fire and other claims *against* the company, together with all supporting data.	3 years after settlement.
	(b) Claims registers, card or book indexes, and other records which record overcharge, damages, and other claims filed by the company *against others*, together with all supporting data.	Do.
	(c) Records giving the details of authorities issued to agents, carriers, and others for participation in freight claims.	3 years.
	(d) Reports, statements and other data pertaining to personal injuries or damage to property when not necessary to support claims or vouchers.	Do.
	(e) Reports, statements, tracers, and other data pertaining to unclaimed, over, short, damaged, and refused freight, when not necessary to support claims or vouchers.	1 year.
	(f) Authorities for disposal of unclaimed, damaged, and refused freight	3 years.
	G. TAXES	
1	Copies of returns and schedules filed with taxing authorities, supporting work papers, records of appeals, tax bills and receipts for payments. (See Item C-4(b) for vouchers evidencing disbursements):	
	(a) Income tax returns	3 years after settlement.
	(b) Property tax returns	Do.
	(c) Sales and use taxes	3 years.
	(d) Other taxes	3 years after settlement.
	(e) Agreements between affiliated companies as to allocation of consolidated income taxes.	Do.
	(f) Schedule of allocation of consolidated Federal income taxes among affiliated companies.	Do.
2	Summaries of taxes paid	Optional.
3	Filing with taxing authorities to qualify employee benefit plans	3 years after settlement of tax return or discontinuance of plan, whichever is later.
4	Information returns and reports to taxing authorities	3 years, or for the period of any extensions granted for audits.
	H. PURCHASES AND STORES	
1	Material ledgers:	
	(a) Records of material and supplies on hand	2 years.
	(b) Balance sheets of material and supplies on hand at division storehouses, shops, and other places.	Do.
2	Inventories:	
	(a) General inventories of material and supplies on hand, with record of adjustments between accounts required to bring stores records into agreement with physical inventories.	Do.
	(b) Stock cards, inventory cards, and other detailed records pertaining to the taking of inventories if abstracted into records covered by item 2(a) above.	Optional.
	(c) Minor inventories of material and supplies on hand if not reflected in adjustments of accounts.	Do.

Item	Category of records	Retention period
3	Purchases and Sales:	
	(a) Copies of orders for the purchase of material and supplies	2 years.
	(b) Advices from individuals and companies acknowledging receipt of orders for material and supplies and notices of shipment.	Optional.
	(c) Invoices for material and supplies purchased whether attached to vouchers or filed separately. (See Item C-4(b)).	6 years.
	(d) Reports of scrap on hand	2 years.
	(e) Authorities for the sale of scrap and other material and supplies	Do.
4	Material and supplies received and issued:	
	(a) Records and reports of material and supplies received and issued	Do.
	(b) Records of inspecting and testing material and supplies	Optional.
	(c) Records, memoranda, and authorities supporting writeoffs of surplus, obsolete, and scrap material and supplies.	2 years.
	(d) Price records of material and supplies issued	Do.
	I. SHIPPING AND AGENCY DOCUMENTS	
1	Bills of lading and releases:	
	(a) Consignors' shipping orders, consignors' shipping tickets, and copies of bills of lading, freight bills from other carriers and other similar documents furnished the carrier for movement of freight.	3 years.
	(b) Shippers' order-notify bills of lading taken up and cancelled	Do.
2	Freight waybills:	
	(a) Local waybills	Do.
	(b) Interline waybills received from and made to other carriers	Do.
	(c) Company freight waybills	Do.
	(d) Express waybills	Do.
3	Freight bills and settlements:	
	(a) Paid copy of freight bill retained to support receipt of freight charges.	
	(1) Bus express freight bills provided no claim has been filed	1 year.
	(2) All other freight bills	3 years.
	(b) Paid copy of freight bill retained to support payment of freight charges to other carriers.	
	(1) Bus express freight bills provided no claim has been filed	1 year.
	(2) All other freight bills	3 years.
	(c) Records of unsettled freight bills and supporting papers	1 year after disposition.
	(d) Records and reports of correction notices	3 years.
4	Other freight records:	
	(a) Records of freight received, forwarded, and delivered	Do.
	(b) Notice to consignees of arrival of freight; tender of delivery	2 years.
5	Agency records (to include conductors, pursers, stewards, and others):	
	(a) Cash books	3 years.
	(b) Remittance records, bank deposit slips, and supporting papers	Do.
	(c) Balance sheets and supporting papers	2 years.
	(d) Statements of corrections in agents accounts	Do.
	(e) Other records and reports pertaining to ticket sales, baggage handled, miscellaneous collections, refunds, adjustments, etc.	Do.
	J. TRANSPORTATION	
1	Records and reports of tickets issued, redeemed and destroyed, and ticket stock on hand.	2 years.
2	Records and reports of baggage checks issued, sold, and on hand	Do.
3	Used and cancelled tickets, cash fare slips, baggage checks, reports of which have been audited.	Optional.
4	Passes, reduced fare, and tickets:	
	(a) Copies of orders in printing houses for pass stock	Do.
	(b) Records of pass stock received, distributed, and destroyed	2 years.
	(c) Records and reports of passes and tickets, issued free or at reduced rates, and of such tickets requested from other carriers.	Do.
	(d) Records of passes received from other carriers	Do.
	(e) Reports of trip passes and free or reduced-rate passenger-fare tickets issued and collected.	Do.
	(f) Reports of annual or term passes honored	Optional.
	(g) Void, unused or unissued passes	Do.
5	Mail service:	
	(a) Records and reports of mail service, mail failures and detentions, fines, deductions, and irregularities.	2 years.
	(b) Records and reports of mail pouches received and distributed	1 year.
6	Dispatchers' sheets, registers, and other record pertaining to movement of transportation equipment.	3 years.
7	Import and export records including bonded freight and steamship engagements	2 years.
8	Records, reports, orders and tickets pertaining to weighing of freight	3 years.
9	Records of loading and unloading of transportation equipment	2 years.
10	Records pertaining to the diversion or reconsignment of freight, including requests, tracers, and correspondence.	Do.
11	Records pertaining to transportation of household goods:	
	(a) Estimate of charges	3 years.
	(b) Order for service	Do.
	(c) Vehicle-load manifest	Do.
	(d) Descriptive inventory	Do.
12	Records and reports pertaining to operation of marine and floating equipment:	
	(a) Ship's log	3 years.
	(b) Ship's articles	Do.
	(c) Passenger and room list	Do.
	(d) Floatmen's barge, lighter, and scow captains' reports, demurrage records, towing reports and checks sheets.	2 years.
	Car distribution and movement—railroads only:	
	(a) Records of car allotment and distribution	2 years.
	(b) Records of cars ordered, furnished and loaded	Do.
	(c) Records showing dates and numbers of trains, initials and numbers of cars, movement of cars, and mileage of cars and trains.	Do.
	(d) Reports of cars interchanged with connecting lines	Do.
	(e) Reports of unfilled car orders	1 year.
	(f) Per diem and mileage reports made and received, including reclaims and discrepancy and adjustment reports.	2 years.
	(g) Demurrage and storage records	Do.
	Oil and other products stocks and movements—pipelines only:	
	(a) Records of receipts, deliveries, pumpings, stocks, and over and short	3 years.

Item	Category of records	Retention period
	(b) Run tickets showing quantities by tank measurement or meter readings of oil and other products received into and delivered from company's lines.	Do.
	(c) Reports or records of runs, allowables, and legal stocks by leases	Do.
	(d) Statements of oil and oil products consumed as fuel including quantity, value, and where consumed.	Do.
	(e) Statements of oil and other products lost by line breaks and leaks including quantity, value, and location of breaks and leaks.	Do.
	(f) Reports of power furnished by producers: monthly reports of the quantity of oil run in connection with which power was furnished by producers, and records of payment for such power.	Do.
	(g) Records of producers' property identifying ownership and location of producers' tanks or wells to which carriers' lines are connected.	3 years after disconnection.
	(h) Tank gage tables for all tanks used in carrier operation	3 years after disconnection or restrapping.
	(i) Division or other periodical inventory reports of oil and other products on hand.	3 years.
	(j) Division orders: Directions received by carrier as to the division of interest and to whose account transported oil should be credited.	3 years after discontinuance.
	(k) Directions received by the carrier for the transfer of division order interests from one interest owners to another.	Do.
	(l) Transfer orders for the transfer of ownership of oil or other products in carrier's custody.	3 years.
	K. TARIFFS AND RATES	
1	Official file copies of tariffs, classifications, division sheets, and circulars relative to the transportation of persons or property.	3 years after expiration or cancellation.
2	All other copies of tariffs, classifications, division sheets, and circular referred to in Item 1 above.	Do.
3	Authorities and supporting papers for transportation of property or passengers free or at reduced rates.	3 years.
4	Copies of concurrences and powers of attorney filed with the Interstate Commerce Commission and other regulating bodies.	2 years after expiration or cancellation.
5	Correspondence and working papers in connection with the making of rates and compliance of tariffs, classifications, division sheets, and circulars affecting the transportation of persons or property.	2 years after cancellation of tariff.
6	Contracts and minimum rate schedules of contract motor carriers	3 years after expiration or cancellation.
	L. REPORTS AND STATISTICS	
1	Reports to Interstate Commerce Commission and other regulatory bodies:	
	(a) Annual financial, operating and statistical reports, file copies of, and supporting data.	10 years.
	(b) Periodical reports of operating revenues, expenses, and income, file copies of, and supporting data.	3 years.
	(c) Reports detailing use of proceeds from issuance or sale of company securities, file copy of, and supporting data.	Do.
	(d) Valuation inventory reports and records together with related notes, maps, and sketches; underlying engineering, land, and accounting reports, pricing schedules, summary or collection sheets, yearly reports of changes and other miscellaneous data, all relating to the valuation of the company's property by the Interstate Commerce Commission or other regulatory body.	3 years after disposition of the property.
2	Periodical reports of accidents, inspections, tests, hours of service, repairs, freight car locations, etc.	3 years.
3	Periodical statistical statements of operating results or performance by tonnage, mileage, passengers carried, piggyback traffic, commodities, costs, analyses of increases and decreases, or otherwise.	Do.
4	Miscellaneous statistical reports, statements and summaries, not otherwise provided for herein, used for administrative purposes only and not entering the accounts of the company.	Optional.
5	All other financial, operating and statistical statements or reports with supporting data.	3 years.
	M. MISCELLANEOUS	
1	Index of records (see 1220.3)	Until superseded.
2	Statement listing records prematurely destroyed or lost (see 1220.6(d))	Same period prescribed for listed records.
3	Instruction booklets, circulars, organization handbooks, bulletins, instructions to agents, conductors, drivers, and other employees, and other matters pertaining to the operation of the company.	3 years after expiration or cancellation.
4	Correspondence relating to subject matter covered by other items in this schedule.	Same period prescribed for related record.
5	Tabulating cards, tapes, and other media used in the compilation of statistics and other data when the results are transcribed to other records covered in this schedule.	Optional after summaries have been made.
6	Duplicate copies of accounts, records, and memoranda listed in this schedule, if all information on such duplicates is contained on the originals or other copies retained, and if such duplicates are not specifically provided for in this schedule.	Optional.
7	Complaints, related correspondence, and other records associated with adequacy of service, equipment, and facilities for freight and passenger operations.	2 years.

13. The following parts are deleted:

Part 1221	Electric railways
Part 1223	Express companies
Part 1224	Pipeline companies
Part 1225	Persons furnishing cars to railroads
Part 1226	Motor carriers and brokers
Part 1227	Water carriers
Part 1228	Freight forwarders

PART 1253—RATE-MAKING ORGANIZATIONS; RECORDS AND REPORTS

14. Part 1253, "Rate-making Organization; Records and Reports," is amended by revising § 1253.30 and deleting § 1253.31. As amended, these sections read:

§ 1253.30 Retention of records.

Each organization subject to section 5a shall retain records or documents relating to its transactions or activities in accordance with Part 1220, Preservation of Records, of this chapter.

§ 1253.31 [Reserved]

[FR Doc.75-28897 Filed 10-28-75;8:45 am]

federal register

WEDNESDAY, OCTOBER 29, 1975

PART III:

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

■

MILK IN THE MINNEAPOLIS-ST. PAUL AND CERTAIN OTHER MARKETING AREAS

Recommended Decision and Opportunity to File Written Exceptions

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 1060, 1061, 1068, 1069, 1076]

[Docket Nos. AO-178-A33, etc.]

MILK IN THE MINNEAPOLIS-ST. PAUL AND CERTAIN OTHER MARKETING AREAS

Notice of Recommended Decision and Opportunity to File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

7 CFR Part	Marketing area	Docket No.
1060	Minnesota-North Dakota	AO-360-A10.
1061	Southeastern Minnesota-Northern Iowa.	AO-367-A9.
1068	Minneapolis-St. Paul, Minn.	AO-178-A33.
1069	Duluth-Superior	AO-153-A22.
1076	Eastern South Dakota	AO-260-A21.

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the aforesaid marketing areas.

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, on or before November 28, 1975. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Preliminary Statement

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreements and to the orders as amended, were formulated, was conducted at Minneapolis, Minnesota, on November 11-20, 1974, pursuant to notice thereof which was issued on October 11, 1974 (39 FR 37164).

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/or expanded marketing areas is in the current of interstate commerce, or directly burdens, obstructs, or affects interstate commerce in milk or its products;

2. Whether any combination of the aforesaid marketing areas or parts thereof should be included under one or more orders;

3. Whether any proposed marketing area should be expanded to include additional territory in the States of Minnesota, South Dakota and Wisconsin; and

4. With respect to any of the aforementioned existing orders, or proposed combination thereof, 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.

1. *Character of Commerce.* The handling of milk in the proposed Upper Midwest marketing area and in the modified marketing area of the Eastern South Dakota Order No. 76 is in the current of interstate commerce and directly burdens or obstructs interstate commerce in milk and milk products.

The proposed marketing area, designated as "Upper Midwest marketing area," will include the present marketing areas of Orders 60 (Minnesota-North Dakota), 61 (Southeastern Minnesota-Northern Iowa), 68 (Minneapolis-St. Paul), 69 (Duluth-Superior), the northern part of the present Order 76 (Eastern South Dakota) marketing area, and presently unregulated territory in Minnesota and Wisconsin. This covers territory in Minnesota, Wisconsin, Iowa, North Dakota, and South Dakota. Because territory in five states is included in the Upper Midwest marketing area and territory in three states is included in the Eastern South Dakota marketing area, interstate commerce necessarily is involved.

Milk procurement in this area crosses state boundaries. Handlers regulated by the Minneapolis-St. Paul order procure milk in Minnesota and Wisconsin; handlers regulated under the Minnesota-North Dakota order procure milk in Minnesota, North Dakota, and South Dakota; handlers regulated by the Eastern South Dakota order procure milk in Minnesota, North Dakota, and Iowa; handlers regulated by the Southeastern Minnesota-Northern Iowa order procure milk in Minnesota, Wisconsin, and Iowa; and handlers regulated by the Duluth-Superior order procure milk in both Minnesota and Wisconsin.

Similarly, retail sales of fluid milk products are intermingled among the various states in this region. Milk regulated under the Minneapolis-St. Paul and Southeastern Minnesota-Northern Iowa orders is disposed of in Minnesota, Wisconsin, and Iowa; milk regulated under the Minnesota-North Dakota order is disposed of for sale in both Minnesota and North Dakota; milk regulated under the Eastern South Dakota order is disposed of in South Dakota, Minnesota, and Nebraska; and milk regulated under the Duluth-Superior order is disposed of in both Minnesota and Wisconsin.

In addition to the interstate movements of bulk milk or packaged fluid milk products described above, there are numerous manufacturing plants within the proposed marketing areas (in each of the States of Minnesota, North Dakota, South Dakota, Wisconsin, and Iowa) that produce manufactured dairy products offered for sale in these and other states.

2. *Need for merger of orders.* Marketing conditions in the five separately regulated marketing areas under consideration justify merger of the orders regulating the handling of milk in these areas, except for the southern portion of the Eastern South Dakota marketing area.

The merger of all five markets under consideration (i.e.—Southeastern Minnesota-Northern Iowa, Minneapolis - St. Paul, Duluth-Superior, Minnesota-North Dakota, and Eastern South Dakota) was proposed by the National Farmers' Organization (NFO). This producer cooperative association represents producers supplying milk to the Minneapolis-St. Paul order market. In previous periods, it also has supplied milk to the Duluth-Superior order market.

The merging of the Southeastern Minnesota-Northern Iowa, Minneapolis-St. Paul, and Minnesota-North Dakota orders was proposed by Land O'Lakes, Inc. Land O'Lakes, Inc., represents producers supplying the Minnesota-North Dakota, Minneapolis-St. Paul and Eastern South Dakota order markets. Land O'Lakes also operates a distributing plant in the Duluth-Superior order market as well as distributing plants in the Minneapolis-St. Paul and Eastern South Dakota order markets. Mid-America Dairymen, Inc., proposed the merging of the Southeastern Minnesota-Northern Iowa, Minneapolis-St. Paul, and Minnesota-North Dakota orders. Mid-America represents producers supplying the Minnesota-North Dakota and Minneapolis-St. Paul order markets.

There was opposition expressed to merging several of the named markets. Associated Milk Producers, Inc., supplying the Southeastern Minnesota-Northern Iowa order market, opposed the inclusion of this market. The Twin Ports-Arrowhead Cooperative Dairy, representing producers supplying the Duluth-Superior order market, opposed the inclusion of that market. Representatives of Land O'Lakes, Inc., and Mid-America Dairymen, Inc., opposed inclusion of the Duluth-Superior and Eastern South Dakota orders.

Various proposals to add additional territory either to the merged marketing areas or to individual markets were made. These matters are dealt with under Issue No. 3.

The reasons given by proponents for merging the several orders included the

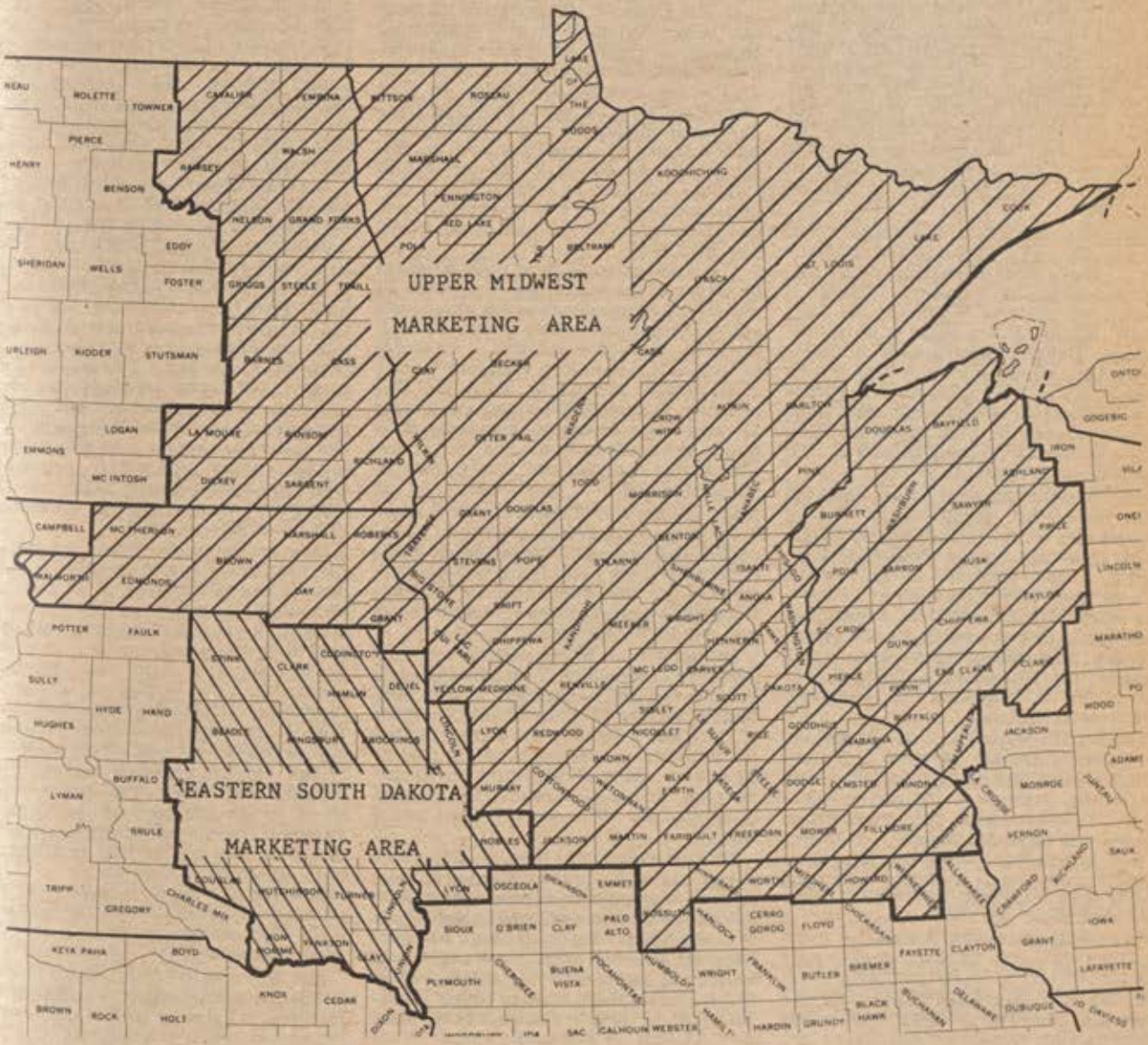
following: (1) Differences in uniform prices among the several orders cause discontent among producers; (2) the overlap of procurement and Class I distribution indicate a unity of the marketing system; (3) some of the markets are inaccesible to producer groups seeking to supply those markets; (4) efficiencies in marketing could be achieved through merging the orders; and (5) marketing stability and flexibility could be achieved with a uniform regulation over a larger area.

Those parties opposed to the merger of certain markets stressed the lack of relationships of such markets to others among the five or claimed that the particular market had a closer relationship to other markets outside these five markets.

It is concluded on the basis of the record evidence that orderly marketing will be served by merging Orders 60, 61, 68, and 69, and part of Order 76 into a single new order to be known as the "Upper Midwest" marketing area. The Eastern South Dakota order, with the exception of five of its northernmost counties, should not be included in the merger, but should be expanded to include three now unregulated counties in southwestern Minnesota and two now unregulated counties in eastern South Dakota.

The two marketing areas, as proposed herein, are shown in the following map:

PROPOSED UPPER MIDWEST AND EASTERN SOUTH DAKOTA MARKETING AREAS



HISTORY OF REGULATION AND DESCRIPTION OF PRESENT MARKETING AREAS

Federal regulation in this area was first initiated in 1941 and was subsequently extended to include all of the heavily populated areas of Minnesota and eastern North and South Dakota. The Minneapolis-St. Paul order (Order 68), promulgated November 3, 1945, applied to a marketing area including the cities of Minneapolis and St. Paul, and surrounding territory in Anoka, Dakota, Hennepin, Ramsey, and Washington Counties of Minnesota. That marketing area was expanded in May 1969 to include all of 21 Minnesota counties and portions of St. Croix and Pierce Counties, Wisconsin.

The Southeastern Minnesota-Northern Iowa order (Order 61, also referred to as Dairyland) was effectuated May 1, 1969. The Dairyland marketing area and the Minneapolis-St. Paul order marketing area form a geographic block of territory covering the southern half of Minnesota, excepting a tier of counties in western Minnesota, which has remained unregulated. The northern boundary of the Dairyland marketing area abuts the Minneapolis-St. Paul marketing area for a distance of about 140 miles. Both marketing areas have remained unchanged since 1969.

The Minnesota-North Dakota order (Order 60) was promulgated November 1, 1967. The marketing area, unchanged since its inception, includes a portion of western Minnesota, eastern North Dakota, and a three-county area in South Dakota. It joins with the Eastern South Dakota order marketing area (Order 76) on its southwestern border for a distance of over 110 miles and joins the Minneapolis-St. Paul marketing area at the boundary of Douglas and Stearn Counties, Minnesota.

The present Eastern South Dakota order (Order 76) resulted from a May 1965 merger of the Sioux Falls-Mitchell, South Dakota order (promulgated September 1, 1952) and the Eastern South Dakota order (promulgated May 1, 1955). The marketing area borders the Minnesota-North Dakota order to the north and the Nebraska-Western Iowa order to the south. Unregulated territory borders the marketing area on its eastern and western borders.

The Duluth-Superior order (Order 69) was promulgated May 5, 1941. The marketing area originally included the cities of Duluth, Minnesota; Superior, Wisconsin; and Cloquet, Minnesota. The market was expanded March 1, 1960 and now includes all of Carlton County, Minnesota, and Ashland, Douglas, and Bayfield Counties, Wisconsin.

THE CASE FOR MERGER

There are many different factors that are relevant in determining whether these five markets should be merged. These factors can be broken down into the following categories: (a) Overlap of Class I distribution; (b) Overlap of procurement areas; and (c) Market structure and accessibility.

A. *Overlap of Class I distribution.* The range of distribution by regulated handlers has expanded greatly since these five orders were promulgated. The reasons for this expansion are varied, but generally can be attributed to the spread of urbanized areas, better roads, improved technology, economies of large scale operation, and reciprocity of health standards.

As handlers have extended their range of distribution, they have increasingly disposed of fluid milk products in the marketing areas of neighboring orders. Not all such instances are described in detail below because of the restrictions protecting confidentiality of information relating to operations of individual handlers.

In the Order 61 (Dairyland) marketing area, during May and September 1974, nine Order 68 (Minneapolis-St. Paul) handlers accounted for 25 percent of the total route disposition in that marketing area. Another Order 68 handler testified that he began distribution in the Order 61 marketing area in October 1974. An Order 76 (Eastern South Dakota) handler also has Class I disposition in the Order 61 marketing area, but the volume of such disposition was not disclosed.

The disposition of fluid milk products by Order 68 handlers into the Order 61 marekting area is spread over almost the entire Minnesota portion of that marketing area. The representative of an Order 61 regulated handler, Marigold Foods, at Rochester, Minnesota, which has distribution throughout the marketing area, testified that Marigold competes with Order 68 handlers in all but two of the Minnesota counties in the Order 61 marketing area.

In the Order 60 (Minnesota-North Dakota) marketing area, more than 12 percent of the packaged disposition in May–September 1974 was by plants not regulated under the order. Most of this distribution was from seven Order 68 plants and one Order 76 plant.

In the Order 76 marketing area, 82 percent of the Class I distribution was made by Order 76 handlers during May and September 1974. About seven percent of the Class I distribution was accounted for by handlers regulated under Orders 60 and 61, while handlers regulated under the Nebraska-Western Iowa order accounted for 10 percent of the Class I sales.

In the Order 69 (Duluth-Superior) marketing area, approximately 12 percent of the route sales are from plants not regulated under the order, about half of these originating from Order 68 regulated plants. One Order 68 handler has route sales approximating 30,000 pounds of packaged fluid milk products daily. An Order 61 handler is also making sales in the Order 69 marketing area.

In the Order 68 marketing area, there were route sales by two Order 60 handlers, two Order 61 handlers, and two Order 69 handlers. The proportion of these sales to the total Class I market is relatively small, however.

Overlapping of distribution routes of the handlers regulated under the several orders also occurs in adjacent unregulated areas. A description of handlers' marketing activities in unregulated areas is set forth in detail under Issue No. 3 dealing with extension of the regulated area.

The extent of competition between handlers regulated under the different orders, as indicated above, suggests a significant linkage exists between all of these orders. It is apparent that integration of market structure has occurred to a very large degree between the Minneapolis-St. Paul and the Dairyland markets. In the instance of other markets among the five, a lesser, but significant, sales overlap is noted.

B. *Overlap of Procurement Areas.* The heaviest milk production area in the upper midwest region stretches from southern Wisconsin northerly and northwesterly through Minnesota, including Otter Tail County, Minnesota, and the northeastern corner of Iowa.

Substantial portions of this production area are geographically contained within the regulated marketing areas of the five orders here under consideration. Most of the Grade A milk produced in the region is priced under Federal milk orders, much of it under these five orders.

The degree of procurement overlap is an important factor in market identification, since similarly located producers supplying different markets can be expected to shift to that market with the more favorable price. This could cause disruption to orderly marketing by upsetting supply patterns or cooperative affiliation, particularly when only one coperative association has access to a particular market.

Data on the record show that, with respect to Orders 61 and 68, there is a common procurement area in 15 of the 20 Minnesota counties in the Dairyland marketing area. In addition, both markets draw supplies from four other Minnesota counties and one Wisconsin county. In 1973, 87 percent of the milk supplied to Order 61 came from Minnesota, 11 percent came from Wisconsin, and the remainder came from Iowa.

The Duluth-Superior market draws supplies from seven Wisconsin counties, all of which are part of the Order 68 milkshed (supply area). Similarly, Order 68 shares four out of the six Minnesota counties from which Order 69 draws supplies. Fifty-four percent of the milk supplies for Order 69 come from Minnesota; the remaining 46 percent come from Wisconsin.

The Minnesota-North Dakota procurement area overlaps that of Orders 68 and 76. Order 68 shares 21 Minnesota counties as a common procurement area with

Order 60. In 1973, Order 60 drew 76 percent of its supplies from Minnesota, 22 percent from North Dakota, and two percent from South Dakota.

The procurement area for Order 76 extends into the milksheds of Orders 60, 68, and 61. In all of these instances, however, the overlaps are modest compared to those described above and compared to the procurement overlap between the Eastern South Dakota and Nebraska-Western Iowa markets. The procurement area for the latter market extends throughout most of the Eastern South Dakota marketing area and into southwestern Minnesota. Seventy-four percent of the milk supplied to Order 76 in 1973 came from South Dakota, 20 percent came from Minnesota, and the remainder came from Iowa and North Dakota.

The above data show a high degree of procurement overlap between Orders 68 and 61, Orders 68 and 69, Orders 68 and 60, and Orders 76 and 65. It demonstrates the potential for producer unrest if Federal order uniform prices in the common procurement areas are significantly different or if producers are denied access to their neighbors' markets. This issue will be discussed more below.

C. *Market Structure and Accessibility.* Substantial changes in the operations of milk handlers and of cooperative associations constitute major modifications of the institutional structure of the markets. These changes, which have been fairly rapid over a period of six years (1969–1974), affect dairy farmers' participation in the returns for milk priced under these orders. Fluid processing plants in these markets have become fewer in number, but generally larger in capacity. The decline in number of plants from 1969 through 1974 is shown in the following table:

Order No.	Number of pooled distributing plants		
	December 1969	September 1974	Change
60	17	5	−12
61	12	7	−5
68	22	16	−6
69	5	4	−1
76	6	4	−2
Total	62	36	−26

The size of cooperative associations in terms of volume of milk marketed also has changed. Several cooperatives now represent a substantial portion of the total milk supply in the five markets. There also are numerous cooperatives handling lesser volumes, particularly on the Minneapolis-St. Paul and Minnesota-North Dakota markets.

In the Southeastern Minnesota-Northern Iowa market, a single cooperative association, Associated Milk Producers, Inc., supplies the largest handler, who processes about 90 percent of the Class I milk pooled under the order. This handler, Marigold Foods, Inc., at Rochester, Minnesota, formerly (in 1968) purchased milk at this plant from ten cooperative associations. At that time, the handler also operated other plants at Austin and Mankato, Minnesota, where milk was received from four other cooperatives.[1] In total, the number of cooperative associations serving the Order 61 area in 1968 was 17, compared to three in September 1974.

In South Dakota, two cooperative associations and a federation of cooperatives supplied the Eastern South Dakota and the Sioux Falls-Mitchell markets prior to their merger in 1965. Presently, one cooperative association, Land O'Lakes, Inc., furnishes the entire supply for the four distributing plants regulated under the Eastern South Dakota market. Land O'Lakes, through a subsidiary, operates the largest of these four plants, accounting for approximately 60 percent of the Class I sales in the marketing area.

The Duluth-Superior market has a supply furnished only by the Twin Ports-Arrowhead Cooperative Dairy, an organization affiliated with Land O'Lakes, Inc. A third cooperative, National Farmers' Organization, was associated with the market in 1972, but subsequently left the market. There are four distributing plants regulated under Order 69. One of them is operated by Land O'Lakes, Inc.

The situation in the Order 60 and 68 markets is substantially different. There were 28 and 34 cooperatives, respectively, in these markets in September 1974. This number includes several relatively small (in terms of members) cooperative associations that market their member milk through the marketing systems of some of the larger cooperatives. In September 1974, there were 16 fully regulated distributing plants under Order 68 and five such plants under Order 60. In addition, there were many pool supply plants associated with each of these markets.

Institutional factors are important in evaluating the effect of separate order regulations compared to a single order. This is illustrated in the comparison of the proportions of milk supplies used in Class I in the several order markets. Specifically, in the Eastern South Dakota, Duluth-Superior, and Southeastern Minnesota-Northern Iowa order markets, there is a substantially higher proportion of supplies used in Class I than in the other two markets, as shown in the following table.

[1] Official notice is taken of the decision issued February 27, 1969 (34 FR 3808).

Class I utilization percentage

	Order 60	Order 61	Order 68	Order 69	Order 76
	Minnesota-North Dakota	Dairyland	Minneapolis-St. Paul	Duluth-Superior	Eastern South Dakota
1970	30	44	43	50	59
1971	27	40	42	32	52
1972	24	44	43	54	48
1973	25	50	40	57	45
1974	22	50	32	60	46
Change 1970–74	−8	+6	−11	+10	−13

The trends in utilization in the separate markets over a period of five years are significant. Orders 61 and 69 have experienced an increase in the percentage of producer milk used in Class I. Because of the buyer-seller arrangements in the three smaller markets, the level of Class I utilization in each of these markets generally can be established by the cooperative association on the basis of a decision as to the quantity of milk that will be pooled under the order. In the Order 61 market, nearly all of the supply is from a single cooperative, Associated Milk Producers, Inc.; likewise, in the Order 69 market, the Twin Ports-Arrowhead cooperative is the only one supplying the market.

The situation in the Eastern South Dakota market is somewhat different, although this market also is supplied by only one cooperative. This market has had a declining percentage use in Class I in recent years.

The effect of different Class I utilizations on returns to producers under the five orders is manifested through the uniform price. The average uniform price for the years of 1970 through 1974 for the five orders is shown in the following table.

	Order 60	Order 61	Order 68	Order 69	Order 76
1970	5.08	5.14	5.19	5.01	5.54
1971	5.19	5.24	5.33	5.26	5.60
1972	5.39	5.51	5.54	5.47	5.76
1973	6.45	6.55	6.58	6.49	6.77
1974	7.46	7.72	7.80	7.74	7.86

From the above table, it is obvious where the additional 1 billion pounds of milk has been pooled; Orders 68 and 60 have absorbed almost all of it. The milk pooled under Orders 61 and 69 has actually decreased during this period.

In view of the preceding considerations, it is apparent that the level of Class I utilization in the Minneapolis-St. Paul market and the Minnesota-North Dakota market more typically represents the impact of the large supplies of Grade A milk available in the region. In contrast, the Class I utilizations in the Order 61 and Order 69 markets reflect a sheltered situation which results from the play of institutional factors and the existence of separate orders.

The change in handlers' and cooperatives' operations has clearly reduced the ability of the four Federal milk orders in their present form to provide dairy farm-

ers with equitable opportunity for participation in market returns. With respect to the Duluth-Superior and Southeastern Minnesota-Northern Iowa markets, each supplied by one principal cooperative, the existence of separate orders results in segregation of returns for producers on an organizational basis. For instance, in March, 1975,[2] Order 69 Class I utilization was 57 percent, compared to the Minneapolis-St. Paul utilization of 31 percent. The Order 69 blend price exceeded the Order 68 blend by 24 cents per hundredweight at central market locations. Only about 2 cents of this difference can be explained by the 4-cent higher Class I differential. It is clear that the main price difference is because of the higher utilization in Order 69.[3]

Producer milk pooled under 5 orders, 1970–74 (1,000,000 pounds)

	Order 60	Order 61	Order 68	Order 69	Order 76	Total
1970	654	464	1,962	186	187	3,453
1971	745	508	2,115	186	228	3,782
1972	793	460	2,314	181	263	4,011
1973	768	470	2,548	156	281	4,223
1974	814	435	2,835	143	279	4,506

It is readily apparent that a substantial change in price relationship has occurred during this five year period. With respect to Orders 61 and 68, for instance, it is noted that at the beginning of this period, the blend price under Order 68 exceeded the Order 61 price by 5 cents per hundredweight. By 1974, the Order 61 blend price exceeded the Order 68 blend price by 13 cents.

A comparison of blend prices under Orders 68 and 69 shows that in 1970 the Order 68 price exceeded the Order 69 price by 18 cents. By 1974, the situation was reversed, with the Order 69 price exceeding the Order 68 price by 15 cents.

Although substantial differences exist between the blend prices of Orders 60, 68, and 706, testimony at the hearing suggests that the actual prices to producers do not reflect the magnitude of these differences due to reblending of proceeds by cooperative associations with producers in two or more of these markets.

CONCLUSIONS

The facts discussed above lead to several relevant questions in determining the case for merger:

(1) Why has the relationship among these 5 markets changed?

(2) What effect do the changes have on producers marketing milk in this region? and

(3) What form of regulation will best insure orderly marketing for the future?

Part of the reason for the change in Class I utilization and prices to producers is to be found in the influx of newly-converted Grade A supplies pooled under the orders. The total supplies pooled under the five orders increased from 3.5 billion pounds in 1970 to 4.5 billion pounds in 1974. The following table shows how this milk was divided among the five markets.

A similar comparison of uniform prices can be made between the Order 61 and Order 68 markets, where Class I and Class II prices in the two markets are identical. The Order 61 uniform price has been consistently higher since the year 1972. In March and April 1975, the months of flush production, the differences were 17 cents and 22 cents per hundredweight, respectively. In these two months, the Class I utilization under Order 68 was 31 and 30 percent, respectively, while under Order 61 the corresponding percentages were 51 and 54 percent. These differences are significant in an appraisal of the degree to which orderly marketing conditions exist.

The Eastern South Dakota order market, also completely supplied by a single cooperative, has a different milk supply situation than the Dairyland and Duluth-Superior markets. In the case of the latter two markets, there is a significant overlap of milk supply with the Order 68 market. The Eastern South Dakota market, on the other hand, does not obtain substantial amounts of Grade A milk in Minnesota. Its principal supply of Grade A milk comes from within the marketing area and in relatively close proximity to the principal cities therein, i.e., Aberdeen and Watertown in the northern sector of the market, and Sioux Falls, Brookings, Huron, Mitchell, and Yankton, in the southern sector of the market.

Thus, where milk in the heavy production area of Wisconsin and Minnesota (described earlier) is in close proximity to handlers in the territory herein proposed for merger, the Grade A milk supply for much of the Eastern South Dakota market, as well as the handlers' plants in this market, are somewhat removed from such heavy milk production area.

For the four Orders 60, 61, 68, and 69, it must be concluded that present regulation is not resulting in an equitable distribution of market returns, considering that the milk of Grade A dairy farmers throughout most parts of the heavy milk production area is available either to several or all of the four markets. Within the new marketing structures that have developed among suppliers and handlers, competition for fluid outlets has resulted in disorderly marketing conditions for dairy farmers associated with these markets.

It is not uncommon that supply plants associated with one or another of the markets here under consideration have lost their Class I outlets to competition and have been forced, because of the limited pooling base under the order involved, to seek pooling status under other orders. In many situations, alternative outlets can be secured only in distant markets. The milk involved may displace traditional supplies in such markets which then may necessarily have to be disposed of for manufacturing uses. In other instances, the milk has gained pooling status in distant markets without significant performance through loopholes in the structure of the pooling provisions of the orders covering such markets. In usual circumstances, pooling in the distant market results in a lesser return for this upper midwestern milk than would result if the milk could have been pooled locally.

Several plants in Minnesota, formerly regulated by one of the four orders, now are pooled under the Federal milk orders regulating the handling of milk in the Greater Kansas City, Southern Illinois, and Des Moines, Iowa, marketing areas. In other cases, the milk of groups of Minnesota producers has been moved by direct pickup at the farm to the St. Louis Federal order market and to other markets as a means of sharing in the Class I market.

Examples of the changes in plants associated with the Southeastern Minnesota-Northern Iowa (Dairyland) market illustrate the situations just described. In 1970, five supply plants were pooled on the Dairyland market. Two plants were operated by Land O'Lakes, Inc., (at Mountain Lake and Pine Island, Minnesota), one by the Pigeon Falls Cooperative Creamery (at Pigeon Falls, Wisconsin), and one by the A–G Cooperative Creamery (at Arcadia, Wisconsin). Also, at this time, there were as many as seven cooperative associations, including Associated Milk Producers, Inc., supplying milk to proprietary handlers regulated under the Dairyland order. AMPI marketings were by shipment from member producer farms directly to processing plants.

In September 1971, the Land O'Lakes Pine Island plant ceased association with the Dairyland market and was pooled on the Southern Illinois Order No. 32. A further change in the supply arrangements occurred in July 1973, when AMPI qualified a pool supply plant at Owatonna, Minnesota.

In 1974, there was a break in the arrangement by which AMPI had marketed the milk of the Mid-America Twin Lakes

[2] Official notice is taken of data for these markets in Federal Milk Order Statistics, January–May 1975, USDA, Agricultural Marketing Service.

[3] In some prior periods, such price comparisons would involve the different Class II price formulas under the two orders. Prior to August 1, 1974, when the Duluth-Superior and Minneapolis-St. Paul orders were amended to establish a three class system, the Duluth-Superior Class II price was different from the Minneapolis-St. Paul market. Such Class II price, based on a butter-powder formula, was $1.43 per hundredweight lower than the Order 68 Class II price in February 1974. As a result, the Order 69 uniform price was lower than the Order 68 uniform price in spite of a 55 percent Class I utilization in Order 69 compared to a 30 percent Class I utilization under Order 68.

plant, Elba Cooperative Creamery at Elba, Minnesota, and the milk of Elgin Cooperative of Elgin, Minnesota. The milk of these cooperatives had been included in the total supply furnished to Marigold Foods at Rochester, Minnesota. In the latter half of 1974, this marketing arrangement was discontinued. As stated by the AMPI witness, the cooperative "* * * replaced that displaced volume with producer volume of our own" when the Alma, Wisconsin, plant of AMPI was qualified for pooling under Order 61 in October 1974.

It is to be expected that this type of evolution of market structure may occur in any case where a single cooperative association has sufficient member milk to supply a relatively small, or medium, volume market. As indicated elsewhere, the Dairyland market is in this respect similar to the Duluth-Superior and Eastern South Dakota Federal order markets.

Contrasting to this situation is the Minneapolis-St. Paul market, where there is a number of cooperative and handler sources of supply. Presently, 34 cooperative associations have milk pooled under that order. This market pool has absorbed some of the supplies that once were associated with the Order 61 or Order 69 markets. Two of the supply plants that previously qualified on the Order 61 market now are regulated on the Order 68 market. A group of producer members of the National Farmers Organization that were previously identified with the Duluth-Superior market changed their market so that their milk now is pooled under the Minneapolis-St. Paul order. In other instances, plants not previously associated with any Federal order market have become pool plants under Order 68.

These aforedescribed marketing conditions, including changes in the market structure, indicate a need for modification of the form of order regulation. The increase in the size of cooperative and proprietary handlers' operations, not only within individual markets but also on a intermarket basis, has made obsolete a continuation of the four separate orders, and calls for some restructuring of the Eastern South Dakota marketing area. The separate regulations for Orders 60, 61, 68, and 69 are not achieving a proper distribution of returns of the fluid markets among the milk supplies immediately available to these markets. As a result, there are disparities in conditions affecting producers marketing their milk under the several orders which have tended to promote dissension among producer groups and uneconomical marketing patterns by cooperative associations.

The situation unquestionably will become increasingly severe as the transition from manufacturing grade milk to Grade A milk progresses.

In Wisconsin, Grade A marketings increased from 7.5 billion pounds in 1966 to 10.7 billion pounds in 1974. In Minnesota, Grade A marketings nearly doubled, from 1.7 billion in 1966 to 3.4 billion in 1974. Grade A milk and cream marketings in these and other specified states, for the years 1966, 1969 (the year that Dairyland became effective), 1970, and 1974 are shown in the following table:

Grade A milk and cream marketed by farmers [1]

[In million pounds]

State	1966	1969	1970	1974
Wisconsin	7,461	8,889	9,626	10,677
Minnesota	1,690	2,306	2,677	3,356
Iowa	1,105	1,405	1,404	1,647
North Dakota	220	301	227	319
South Dakota	204	202	218	305
Total	10,680	13,003	14,154	16,304

[1] Official notice is taken of the annual publications of "Milk Production, Disposition, Income" by Crop Reporting Board, S.R.S., USDA, covering the periods 1966 through 1974. Estimates of quantities of Grade A milk are derived by applying percentage figures to total marketings.

In total, the increase in Grade A marketings for these States, 1966-74, was 5.6 billion pounds, an average increase of 703 million pounds per year.

The potential for development of an even larger Grade A milk supply is indicated in the following table showing the proportion of the milk production in these states that does not now qualify as Grade A. In Minnesota, for example, about 63 percent of the 9 billion pounds of milk marketed in 1974 was manufacturing grade.

State	Milk and cream marketed in 1974 (million pounds)	Percent non Grade A
Wisconsin	17,795	40
Minnesota	9,070	63
North Dakota	910	65
South Dakota	1,385	78
Iowa	3,660	55

Potential milk supplies for these markets from the State of Minnesota alone are indicated by a 1974 annual milk production of over 9 million pounds compared to a total order receipts of 4.5 billion pounds under the five orders. In the general area of Wisconsin from which these orders draw milk supplies (Crop Reporting Districts 1 and 4), total milk production in 1974 was close to 4.5 billion pounds, of which more than half was not pooled under any Federal order. While the volume of production in North and South Dakota is much smaller, the proportion of manufacturing grade milk is even larger. Thus, there is a very large quantity of potentially Grade A milk supplies no more distant than milk presently pooled under these orders. It can be expected there will be a continuing tendency for many of the dairy farmers producing manufacturing grade milk to improve their operations to attain Grade A qualification.

It is expected that cooperative associations and handlers will seek to pool under the upper Midwest Federal order markets most of the increase in the production of Grade A milk in the area. This cannot be accomplished under the framework of the existing orders, however, because the growth of Grade A milk supplies will be much greater than the growth of fluid requirements of these markets. Grade A milk pooled on the five markets increased 38 percent from December 1969 to December 1974, but the quantity used in Class I increased only 3 percent.

Because of this situation, the coordination of order pricing and pooling is vitally important in this area. Each of the markets here under consideration is affected by this supply situation, although in certain markets this is obscured by institutional factors that inhibit free adjustment of supplies among the markets.

The incentive for dairy farmers is to pool their milk where the highest return is available. With equal access to the respective markets, this would result in an equalization of returns under the several orders. If such balancing of milk supplies among the markets occurred, orderly marketing conditions would be manifested by the unfettered association of milk supplies according to price incentives. This, however, is not the case since two of the markets have seemingly absorbed a disproportionate share of the area milk supplies.

In addition to removing the basic problem of sharing the returns among all of the Grade A producers in this area, the proposed merged order will promote greater efficiency in the moving and handling of milk. Present efforts of cooperative associations and handlers to pool on these markets the milk produced in associated production areas involve movements unrelated to economical supply systems for a particular market. This is true also when supplies produced in this area are pooled on other more distant markets. The proposed merged order will provide a broad basis for pooling Grade A milk supplies produced within and close to the proposed marketing area, and will obviate shipments of milk for the sole purpose of attaining pooling status.

The merger action will also reduce uneconomic milk handling resulting from cooperatives attempting to maintain or adjust levels of Class I utilization in individual markets. Circumstances where a cooperative association attempts to balance milk supplies and Class I utilization levels between two markets, or a cooperative handling the major supply in a single market arranges to limit supply, foster uneconomical supply arrangements. Because the merged order would equalize Class I utilization over the entire area, the incidence of uneconomic handling of milk would be minimized.

Opposition to Inclusion of the Duluth-Superior Market

In opposition to merging the Duluth-Superior market with the other markets, a representative of the Twin Ports-Arrowhead Cooperative Dairy stated that

this market is isolated geographically and has its own special supply of milk. He contended that the market's production area has a uniqueness due to such factors as a short growing season and lack of alternative agricultural enterprises, all of which result in production costs higher than other areas to the south supplying the Twin Cities and other Minnesota markets.

Except for institutional arrangements, which can affect the sources of a market's milk supply, alternative milk supplies in the heavy milk production region are amply available to the Duluth-Superior market.

The Duluth-Superior supply area in Minnesota and Wisconsin abuts and, in some measure, overlaps the heavy milk production region described elsewhere in these findings: About 32 percent of the milk pooled on the Order 69 market in December 1973 was produced in an east-west corridor of counties contiguous to the Order 69 marketing area on the south (Pine County, Minnesota, and Burnett, Washburn, and Sawyer Counties, Wisconsin.) This area is adjacent to the heavy production area in Polk and Barron Counties, Wisconsin, where a substantial volume of the milk produced is pooled under Order 68. As pointed out earlier, there are a number of counties in which both markets have supplies. Barring institutional factors, there is no apparent reason why the ample supplies described should not be as equally and economically available to the Duluth-Superior market as to the Minneapolis-St. Paul market. In the latter market, the volume of milk pooled is generally in excess of the market's fluid needs; therefore, not all such supplies are bound to that market by a need to meet fluid demands.

Opponents argue that separate regulation is needed for the Duluth-Superior area to maintain a higher price there than in areas to the south. However, opponents ignore the fact that substantial supplies of milk in this same area are now being pooled under the Minneapolis-St. Paul order at a substantially lower price. For instance, data introduced at the hearing show that in December 1973, more milk from Pine County, Minnesota—the biggest supply county for the Duluth-Superior market—was being pooled under Order 68 than under Order 69. In that month, 2.44 million pounds of milk were pooled on the Minneapolis-St. Paul market compared to 2.38 million pounds that were pooled on the Duluth-Superior market. Similarly, with respect to Bayfield and Ashland Counties in Wisconsin, which are part of the Duluth-Superior marketing area, more milk from those counties went to Order 68 than to Order 69.

Equity can only be achieved if all producers in this common supply area share equally in the proceeds of the several fluid markets. Accordingly, the declared policy of Act, to assure an adequate supply and to provide orderly marketing, can most appropriately be carried out by inclusion of the Duluth-Superior order in the Upper Midwest marketing area.

SEPARATE REGULATION FOR THE EASTERN SOUTH DAKOTA MARKET

The southern portion of the Eastern South Dakota order market should not be included in the merged order. However, the northern tier of five counties (McPherson, Walworth, Edmunds, Brown, and Day, referred to throughout this discussion as the "five-county area"), should be incorporated into the new Upper Midwest order marketing area. The remaining portion of the Order 76 marketing area should be extended to include the presently unregulated South Dakota counties of Brookings and Deuel, and the presently unregulated Minnesota counties of Lincoln, Pipestone, and Nobles. This extension is discussed elsewhere under the subject "additional territory to be regulated".

Testimony of milk dealers and producer groups generally opposed the merger of the Order 76 market with the other four order markets. The only expression of support for merger of Order 76 came from the National Farmers Organization.

It was the general consensus of most witnesses testifying on this matter that Order 76 was more integrated with the Nebraska-Western Iowa order from a standpoint of procurement and Class I sales than with other markets here considered for merging and should not, therefore, be included in this merger. A factor relied upon by Land O'Lakes in opposing the inclusion of the Eastern South Dakota market was the intermingling of producers with those for the Nebraska-Western Iowa market.

The Eastern South Dakota marketing area presently encompasses most of the eastern one-third of South Dakota. It is an elongated marketing area extending from the North Dakota border to the Nebraska state line, a distance, north-south, of about 270 miles.

The portion of the Eastern South Dakota marketing area herein proposed to be merged with the Minnesota markets is comprised of a tier of counties joined on the north with the Order 60 marketing area. An extension of this corridor of counties east to the Minnesota border also covers an area of three South Dakota counties, Marshall, Roberts, and Grant, which now are part of the Order 60 marketing area.

The principal city in the five-county area proposed to be annexed to the Upper Midwest marketing area is Aberdeen with a 1970 population of 26,476. Aberdeen, in Brown County, is about 40 miles south of the North Dakota state line and the Order 60 marketing area. It is the only large population center throughout the five-county area.

Aberdeen is located 180 miles from the Fargo-Moorhead complex in the Order 60 marketing area, and 210 miles from Sioux Falls, the largest city in the Order 76 marketing area.

The marketing of Grade A milk in the five-county area in the northern sector of the Order 76 market is closely integrated with the Order 60 marketing area. The three South Dakota counties regulated under Order 60, with the five herewith proposed for annexation with the Upper Midwest market, are a part of the supply area for Grade A milk pooled on the Order 60 market. Also, some milk supplies in the adjoining North Dakota counties in the Order 60 marketing area are pooled on the Order 76 market. Local handlers supplying fluid milk products in the northern area of the Order 76 market are the DeVries Dairy, Inc., located in Aberdeen, in Brown County, and Blue Valley Dairy, a producer-handler, located at Hoven, in Walworth County. The fluid milk sales of the two handlers do not extend outside the present Order 76 marketing area.

The Cass Clay Creamery, Inc., operates a partially regulated distributing plant at Mandan, North Dakota, and a distributing plant regulated under Order 60 at Fargo, North Dakota. These bottling plants distribute directly, and through jobbers, into the five-county area. The Mandan plant, by virtue of its sales into both the Order 76 and Order 60 marketing areas, now is partially regulated under both such orders. Cass Clay also operates a butter-powder manufacturing operation at Fargo, North Dakota, and a cheese manufacturing plant at Aberdeen, South Dakota.

The Fairmont Foods Company operates a distributing plant at Moorhead, Minnesota, pooled under Order 60, and a distributing plant in Minneapolis, Minnesota, pooled under Order 68. From these plants, fluid milk products are distributed into the Order 76 marketing area as well as in Orders 60 and 68.

In the remaining territory of the Order 76 marketing area proposed to be left out of this merger are located the other distributing plants pooled under Order 76. These are: Culhanes Dairy, Mitchell, South Dakota; and Terrace Park Dairy and Lakeside Dairy, both located in Sioux Falls.

The representative of Lakeside Diary testified to having about 30 percent of the total Order 76 Class I market and Terrace Park Dairy about 60 percent. Both handlers distribute fluid milk products into the Nebraska-Western Iowa market. The Lakeside handler's distribution in the Order 65 market is confined to the Sioux City area.

Sioux Falls, (Minnehaha and Lincoln Counties), the largest city in South Dakota (urbanized area population of 75,000), is located in the southeast corner of the State. Sioux Falls is about 60 miles from the Nebraska border and 85 miles from Sioux City, Iowa (urbanized area population of 95,937), one of the principal cities in the Nebraska-Western Iowa marketing area.

In view of the significant sales and procurement relationship with the Nebraska-Western Iowa market, it is concluded that this area should be left out of the Upper Midwest marketing area and reserved for later consideration for merger with the Nebraska-Western Iowa market. The northern sector of the present Eastern South Dakota marketing area is an integral part of the board Upper Midwest market have being considered. An appropriate price level for

this area can be readily adopted to the structure for the merged order. This matter is discussed in more detail under item 4(c) of the findings.

3. *Additional territory to be regulated.* The merged Upper Midwest marketing area should include additional territory, presently unregulated, comprised of: 15 Wisconsin counties, and the portions of St. Croix and Pierce Counties, Wisconsin, that are not now a part of the Order 68 marketing area; and 18 counties in Minnesota and the portion of St. Louis County that is not now a part of the Order 69 marketing area. Three Minnesota counties (Lincoln, Pipestone, and Nobles) and two South Dakota counties (Brookings and Deuel) should be included in the Eastern South Dakota marketing area.

Reasons advanced by proponents for regulation of such territory were:

a. A significant share of the Class I sales in the unregulated territory is made by regulated handlers in competition with unregulated handlers;

b. Although the unregulated handlers have a high Class I utilization, they do not buy milk on a classified use basis. Thus, they have a competitive cost advantage compared to regulated handlers;

c. The Federal order pools carry the burden of reserve supplies that unregulated handlers depend on and purchase to supplement their regular sources during the short production season; and

d. The unregulated territory is contiguous to the present marketing area.

ADDITIONAL WISCONSIN TERRITORY

The Wisconsin territory to be included in the Upper Midwest marketing area (referred throughout these findings as the 17 Wisconsin counties) includes all but one (Jackson County) of the 18 counties proposed for regulation as set forth in the hearing notice. The 17 Wisconsin counties included in the merged and expanded marketing area are:

Barron	Polk
Buffalo	Price
Burnett	Rusk
Chippewa	Sawyer
Clark	St. Croix (remainder)
Dunn	Taylor
Eau Claire	Trempealeau
Pepin	Washburn
Pierce (remainder)	

The total 1970 population of the 17 Wisconsin counties including all of Pierce and St. Croix, is 415,747. Eau Claire County with 67,219 persons, Chippewa with 47,717, and St. Croix with 34,354, (1970 U.S. Census of Population), are the three counties with largest population. A portion of St. Croix County is now regulated under Order 68. The three largest cities in these 17 counties are Eau Claire (about 45,000), Chippewa Falls (12,351), and Menomonie (11,275).

Three producer organizations supplying one or more of the five fluid markets proposed the regulation of additional territory in Wisconsin. Mid-America Dairymen, Inc., proposed that all the foregoing 17 Wisconsin counties, together with Jackson County, be included in the marketing area of a single order, combining Orders 60, 61, and 68. The National Farmers Organization, in connection with its proposal to combine all five markets into a single regulation, proposed inclusion of 13 of the 18 Wisconsin counties noticed in the hearing proposal (excluding Clark, Jackson, Price, Rusk, and Taylor).

Land O'Lakes, Inc., initially proposed the inclusion of all but Chippewa County of the 18 Wisconsin counties proposed for regulation; such proposal was included in the notice of hearing. In its post-hearing brief, however, this cooperative withdrew its support for the regulation of seven of the 18 Wisconsin counties, i.e., Clark, Jackson, Price, Rusk, Sawyer, Taylor, and Trempealeau. The cooperative, in its brief, argued that Order 30 handlers market a greater volume of Class I milk in these counties than Order 68 handlers. The cooperative contends, therefore, that consideration should be given to their regulation under Order 30.

Opposition to regulation of all 18 Wisconsin counties was stated in testimony in behalf of the unregulated milk handlers now marketing Class I milk there.

This additional territory (17 counties) should be brought under regulation to implement continuing orderly marketing for dairy farmers supplying regulated handlers, as well as unregulated handlers, marketing milk therein. Milk is disposed of in this territory by regulated handlers on routes as well as in the form of bulk supplemental supplies to unregulated handlers.

In the 17-county Wisconsin area, there is milk distribution by handlers regulated under three of the five orders (Orders 61, 68, and 69), several milk handlers regulated under the Chicago Regional order, and a number of unregulated milk plants. It is established that such unregulated handlers receive approximately 8.1 million pounds of milk monthly.

Ten of the 17 counties (Price, Sawyer, Washburn, Burnett, Polk, St. Croix, Pierce, Pepin, Buffalo, and Trempealeau) join the present marketing areas of either Order 61, 68, or 69. Geographically, the ten counties form the northern, western, and part of the southern extremities of the Wisconsin territory proposed to be regulated.

Adjacent thereto, in Barron and Eau Claire counties, respectively, are located the two principal unregulated handlers in the proposed Wisconsin territory. These are the Dolly Madison Dairies, Inc., at Eau Claire (Eau Claire County), and Gustafson Ice Cream and Dairy Company at Rice Lake (Barron County). The two unregulated handlers have substantial fluid milk sales in the territory made up of the 10 Wisconsin counties that are contiguous to the present regulated markets.

The Dolly Madison Dairies now is a partially regulated handler under Orders 68, 69, and 30 by virtue of sales into the respective marketing areas; the Gustafson Ice Cream and Dairy Company is partially regulated under Order 69. The primary business of these two handlers is fluid milk products disposition. Together, they have wide distribution of fluid milk products throughout the 17-county Wisconsin area.

Handlers now regulated under Orders 61, 68, and 69, respectively, dispose of 50 percent or more of the total fluid milk disposition in St. Croix (the unregulated portion), Polk, Burnett, and Buffalo Counties. The Gustafson Ice Cream and Dairy Company markets about 20 percent of the plant's Class I milk disposition in these four counties. The inclusion of the four counties in the regulated area, therefore, would result, under proposed pooling standards, in the full regulation of the Gustafson plant.

The Gustafson plant receives milk from about 52 Grade A dairy farmers located in the surrounding production area. About 27 million pounds of milk is received annually from such dairy farmers, roughly 90 percent of which is disposed of in the form of fluid milk products. This handler also purchases annually about 276,000 pounds of milk from a plant located in Rice Lake and purchases certain fluid milk products from an Order 68 regulated plant. Gustafson distributes fluid milk products in all but one (Pepin) of the 17 Wisconsin counties herein proposed for regulation.

The Dolly Madison plant also has a large proportion of its fluid milk products disposition in the 17-county area. About 7.5 percent of Dolly Madison's sales are disposed of in marketing areas of Federal Orders 68, 69, and 30, and roughly 83 percent of its sales are disposed of in 16 of the 17 unregulated counties adopted herein for regulation. It has no fluid milk sales in Burnett County, Wisconsin.

Dolly Madison Dairies is a division of Marigold Foods, Inc., of Rochester Minnesota. The bottling operation receives approximately 50 million pounds of milk annually from about 100 Grade A bulk producers located in the surrounding production area. Close to 90 percent of the milk handled is disposed of in the form of fluid milk products. In addition to milk purchased from dairy farmers, Dolly Madison purchases regulated milk, both bulk and packaged, equal to about 10 percent of its total annual fluid milk sales. It purchases annually about 4 million pounds of bulk skim milk pooled under Order 68 from Mid-American Dairymen, Inc. It also purchases packaged fluid milk products from Marigold Foods, Rochester, Minnesota, an Order 61 pool plant.

The inclusion of the 17 Wisconsin county territory in the merged and extended marketing area will bring under full regulation several additional unregulated distributors whose sales areas are more localized in scope than the Dolly Madison and Gustafson operations.

The Knapp Creamery Company, located at Knapp (Dunn County), Wisconsin, is a bottling plant that receives about 6 million pounds annually from 12 Grade A producers. About 70 percent of this Grade A milk is disposed of as Class I fluid milk products. The Knapp Creamery Company markets Class I products in Dunn County, in St. Croix County (abutting Dunn County on the

west), and in Pepin County, which abuts the Order 61 marketing area.

The Hayward Dairy, a bottling plant located in Hayward (Sawyer County), Wisconsin, purchases about 2 million pounds of milk annually from two Grade A producers. It also purchases packaged milk from the Gustafson Ice Cream and Dairy Company. While the fluid milk distribution of this handler is largely confined to Sawyer County, some sales are made in the Duluth-Superior market. As a consequence, the plant is a partially regulated distributing plant under Order 69.

Hillside Dairy, located in Cadott (Chippewa County), Wisconsin, receives about 2 million pounds of milk annually from three Grade A dairy farmers. The milk is utilized principally in packaged fluid milk products distributed in Chippewa County through dairy stores owned by Hillside Dairy.

The Hoffman Dairy, located in the town of Thorp in Clark County, Wisconsin, receives about 1 million pounds annually from one producer, of which approximately 400 thousand pounds is packaged in fluid form for route disposition. Additional packaged milk in quantities not specified on the record are purchased from Dolly Madison Dairies. Hoffman Dairy distributes Class I products in Clark, Chippewa, and Taylor Counties, Wisconsin.

A primary consideration in the need for extending regulation to the 17-county territory included herein is the lack of uniform pricing for milk marketed there. Handlers now regulated under the present orders operate in competition with unregulated handlers not subject to a classified price plan in the proposed area of extension. The unregulated handlers distributing milk therein pay their farmers prices unrelated to the class use value of their milk, even though a high proportion of their milk receipts is utilized for Class I disposition. Because of this, the unregulated handlers achieve a raw product cost well below the cost to regulated handlers for the same type of utilization.

This cost advantage is greatest when an unregulated handler limits his Grade A receipts to accommodate only his immediate Class I needs and relies on supplementary milk supplies from plants and/or cooperatives during the seasonally short production months of the year. The handler likely must pay a price to his dairy farmers that matches, or betters, the uniform price that regulated handlers are paying. Such pay price of the unregulated handler, however, usually is substantially lower than the classified use value that regulated handlers would be required to pay for the same utilization.

Prices paid by Dolly Madison during January through September 1974, compared with prices based on Order 68 class values, as adjusted for the Eau Claire location, show that in only one month of the 9 months was the Dolly Madison pay price above the estimated class use value. In the remaining eight months, January through August 1974, the actual producer pay price of this handler ranged from 5 cents to $1.29 below the estimated class use value. These price differences over the 9-month period averaged approximately 50 cents below the class use value of the milk.

Similarly, the Gustafson pay price was 2 cents higher than the classified use value in September 1974, but for the months of January through August 1974, was 5 cents to $1.28 below the class use value at the Rice Lake location. The pay prices on the average were 49 cents per hundredweight lower than the class use value during this 9-month period.

A representative of the Dolly Madison Dairies, testifying also in behalf of six other unregulated handlers, opposed the inclusion of the proposed 18-county Wisconsin territory. He contended that there is no specific evidence of disorderly marketing conditions or any serious competitive problems in milk procurement between unregulated handlers and regulated handlers. Incorporating the unregulated Wisconsin territory into the marketing area, he said, would subject them to additional raw product procurement costs because of equalization payments to the order pool for the classified use value of their milk.

The pricing policy of the Dolly Madison and Gustafson, according to this spokesman, is to pay a flat price determined from the blend prices paid in the adjoining Federal order markets. The pay prices of the two handlers, thus, are not based upon their Class I utilization, which is 90 percent or more. The witness stated that, nevertheless, Dolly Madison pays its dairy farmers equal to or better than the Order 68, 69, or 30 blend prices and, accordingly, such dairy farmers would have nothing to gain by the regulation.

It was also contended that marketing conditions are not significantly different than shown in the 1968 hearing that considered expansion of the Order 68 marketing area to include the Wisconsin counties of Polk, St. Croix, Pierce, Dunn, Barron, Chippewa, and Eau Claire. Of these seven Wisconsin counties, only certain townships in Pierce and St. Croix Counties were incorporated in the Order 68 marketing area. It was found that regulated handlers had a substantial portion of the sales in such added areas. Official notice is taken herewith of the decision of the Under Secretary issued February 27, 1969 (34 FR 3833) on the aforesaid hearing record in which percentages of Class I sales by regulated handlers were cited for four Wisconsin counties.

The change since the 1968 hearing in Class I distribution in these four counties by regulated handlers, as per the November 1974 record, are shown in the following table:

Estimated percentage of Class I sales by regulated handlers

	1968 estimates	1974 estimates
Barron	2-8	4-10
Dunn	3-6	9-25
Eau Claire	3-15	16-28
Chippewa	2-3	29-45

In certain other counties not considered in the 1968 proceeding, but considered on this record, regulated handlers have the majority of total Class I marketings. In this respect, this record concerns a broader area of the Wisconsin area adjoining the present marketing area than in the 1968 proceeding, and the evidence indicates a more substantial relationship between marketing in this area and the merged markets than that described in the 1968 record.

Because fluid milk sales vary from day to day (primarily with the day of the week) and from month to month, and milk production varies seasonally, a reserve of production over the average daily volume of fluid sales is necessary to assure a reliable supply. The quantity of reserve needed is proportionate to the volume of Class I disposition of the handler or the market. Milk not actually utilized in Class I disposition, and which is necessarily classified as Class II or Class III milk, returns to producers only the lower value commensurate with such use.

A uniform price plan applicable to all handlerrs offering milk for sale in the expanded area should be made effective by bringing this area within the boundaries of the marketing area of the merged and expanded order. This will tend to stabilize and improve marketing conditions in the specified areas.

A witness for the Central Milk Sales Agency (an association of seven cooperatives, all of which operate pool supply plants under the Chicago Regional Order No. 30) testified in opposition to regulation of additional Wisconsin territory under the merged order. The principal reason given was that the merged order would not provide a suitable pricing plan in the proposed 18-county Wisconsin area, particularly in relation to the Order 30 Chicago Regional Federal order market.

In its post-hearing brief, however, CMSA stated that seven of the proposed Wisconsin counties, Burnett, Polk, St. Croix, Pierce, Dunn, Pepin, and Buffalo, should be included in the Order 68 marketing area. The association brief opposed the expansion of the order to the other 11 Wisconsin counties (Sawyer, Rusk, Chippewa, Eau Claire, Trempealeau, Jackson, Clark, Taylor, Price, Washburn, and Barron), stating that regulation of the latter 11 counties (which constitutes an area where a substantial share of fluid milk sales are made by seven unregulated handlers) should be delayed pending a hearing to consider the regulation of the area under the Chicago Regional order.

With respect to this 11-county area, the association argues that distribution by Order 30 handlers exceeds the volume of distribution by Order 68 handlers in Price, Taylor, Clark, Jackson, and Trempealeau Counties. They reason that inclusion of these five counties under the Chicago Regional order would subject the Dolly Madison plant to full regulation, and inclusion of additional counties where Dolly Madison has Class I sales would regulate the Gustafson operation.

On the other hand, the association's request that seven Wisconsin counties be included in the Order 68 marketing area would result in regulation of the Gustafson Ice Cream and Dairy Company, and probably the Dolly Madison plant, under Order 68. The seven counties proposed by the association include about 30 percent of Gustafson's Class I milk distribution and about 16 percent of the Class I disposition of the Dolly Madison plant. Under the terms of the merged order, a distributing plant with 15 percent route disposition in the marketing area becomes a fully regulated pool plant.

An official of the Consolidated Badger Cooperative, with membership under the Chicago Regional order, requested that 10 Wisconsin counties, Sawyer, Barron, Rusk, Chippewa, Eau Claire, Trempealeau, Jackson, Clark, Taylor, and Price, not be regulated under the merged order. His expressed reasons were that a substantial portion of the milk consumed in the 10 counties, together with the unregulated portions of Wood and Marathon Counties, is already subject to Order 30 regulation; more than 1300 dairy producers in all 12 counties participate in the Order 30 program; and that regulation under Order 30 of all handlers in the 12 counties would provide for greater equity among both handlers and producers.

The factors cited by the Consolidated Badger representative do not present any material considerations not already dealt with, and, except for Jackson County, the requests for exclusion from regulation of the specified Wisconsin counties are denied.

Jackson County should be excluded from the marketing area of the merged order. This is the only county among the 18 wherein a majority of the fluid milk sales are made by Order 30 handlers. Moreover, the extension of regulation under the merged order to Jackson County alone, in contrast with the other Wisconsin counties proposed for regulation, might be such that a single milk distributor, located therein and already regulated under the Chicago Regional order, would instead be regulated under the Upper Midwest order.

The Thomas Brothers Dairy Company at Black River Falls (Jackson County), a distributing plant pooled under the Chicago Regional order, has a majority of the sales of fluid milk products in Jackson County. This handler's sales are generally localized in character, although some fluid milk product distribution is made by this handler in certain communities in Eau Claire, Chippewa, Clark, and Trempealeau Counties.

The class prices under the merged order and the Chicago Regional order would be identical at the Black River Falls location. Extension of the marketing area into Jackson County is not necessary to the full regulation of the presently unregulated handlers in northwestern Wisconsin. Consequently, no purpose would be served by the inclusion of Jackson County in the marketing area. Moreover, the majority of the Grade A milk produced in Jackson County is now priced under the Chicago Regional order. Thus, it would be more appropriate that the Black River Falls handler remain regulated in the Chicago market, where his major milk procurement competition is.

ADDITIONAL MINNESOTA AND SOUTH DAKOTA TERRITORY TO BE REGULATED

Several proposals by cooperative associations would include all of the 22 unregulated Minnesota counties and two South Dakota counties in a regulated area, either a combination of all five markets into a single regulation or in several combinations of markets.

The unregulated territory in northeast Minnesota is a 10-county area between the marketing areas of the Minnesota-North Dakota order on the west, the Minneapolis-St. Paul and Duluth-Superior orders on the east, and the Canadian boundary on the north. In southwest Minnesota, there are 11 unregulated counties between the marketing areas of the Minnesota-North Dakota and Eastern South Dakota orders on the west and the Minneapolis-St. Paul and Southeastern Minnesota-Northern Iowa orders on the east. In the extreme southeast of the state, Houston County is unregulated.

NORTHEASTERN MINNESOTA

Ten counties in northeastern Minnesota were proposed by various parties as extensions of either the merged marketing area or the Duluth-Superior marketing area. These counties are: Aitkin, Cass, Cook, Crow Wing, Itasca, Koochiching, Lake, Morrison, St. Louis, and Todd.

This area had a population of 302,165 in 1970. This figure does not include Duluth in St. Louis County, which is part of the Order 69 marketing area and which has a population over 105,000. In April, 1974, regulated handlers under Orders 60 and 68 distributed about 1.1 million pounds of fluid milk products into these unregulated northeastern counties.

Proposals by Land O'Lakes, Inc., and NFO would extend regulation to eight of the northeastern Minnesota unregulated counties (excluding Lake and Cook). In its post hearing brief, Land O'Lakes modified its proposal, urging that the counties of Cass, Todd, Crow Wing, Morrison, and Aitkin be included in any merged order, and the counties of Koochiching, Itasca, St. Louis, Lake, and Cook be added to the Order 69 marketing area or, in the alternative, to the merged marketing area, if the Duluth-Superior market is included. Mid-America Dairymen, Inc., had proposed for the hearing the regulation of Todd, Morrison, Aitkin, Cass, and Crow Wing Counties, but held in its post hearing brief that the merged order should include all of the Minnesota unregulated counties except Koochiching, Itasca, Lake, and Cook.

The Twin Ports-Arrowhead Cooperative Dairy, representing producers supplying milk in the Duluth-Superior market, proposed the continuance of this market, Order 69, as a separate regulation and expansion of the order to include the unregulated Minnesota counties of Cook, Lake, Itasca, Koochiching, and the remaining unregulated territory in St. Louis County.

Regulated handlers market a substantial portion of the total fluid milk sales in each of the counties in the northeast territory here adopted as part of the merged marketing area. Witnesses for two cooperative organizations indicated that regulated handlers have about 70 to 85 percent of total fluid milk sales in Aitkin County, 65 percent in Cass County, 55 percent in Crow Wing County, 65 to 73 percent in Koochiching County, and 90 to 93 percent in St. Louis County.

The Order 68 handlers include: Clover Leaf Creamery Co. of Minneapolis, distributing in Aitkin, Cass, Crow Wing, and Morrison Counties; Ewald Bros. of Minneapolis, distributing in Aitkin, Cass, Crow Wing, and Morrison Counties; Fairmont Foods, Inc., of Minneapolis, distributing in Morrison County; Land O'Lakes, Inc., at St. Paul, distributing in Aitkin, Cass, Crow Wing, Itasca, Morrison, and Todd Counties; Minnesota Milk Co. at St. Paul, distributig in Aitkin and Todd Counties; Purity Milk Co., St. Cloud, Minnesota, distributing in Aitkin, Morrison, and Todd Counties; and Hastings, Co-op Creamery Company, Hastings, Minnesota, distributing in St. Louis County.

Order 69 handlers include: Land O'Lakes, Inc., Bridgeman Division at Duluth, distributing in Itasca, Koochiching, and St. Louis Counties; Franklin Creamery Company at Duluth, distributing at Aitkin, Koochiching, and St. Louis Counties; Lester River Dairy, Inc., at Duluth, distributing in St. Louis County; and Russell Creamery, Superior, Wisconsin, distributing in St. Louis County.

Order 60 handlers distributing in the ten counties include: Cass Clay Creamery, Inc., at Fargo, North Dakota, distributing in Cass, Koochiching, and Todd Counties; and Fairmont Foods, Inc., at Moorhead, Minnesota, distributing in Cass, Koochiching, Morrison, and Todd Counties.

The Meadow Gold Dairies at Brainerd, Minnesota (Crow Wing County), also has marketed fluid milk products in eight of the 10 counties, Aitkin, Cass, Crow Wing, Itasca, Koochiching, Morrison, St. Louis, and Todd. The Brainerd plant, at the time of the hearing, was partially regulated under these three orders by virtue of route disposition into the marketing areas of Orders 60, 68, and 69. During the months of generally short production, the Meadow Gold plant has received as much as 48,000 pounds daily in supplemental supplies of pool

milk from Order 68 sources. It was the opinion of one cooperative furnishing such supplemental supplies that the Brainerd plant receives approximately an equal amount of milk directly from dairy farmers.

It appears from the record of the hearing that the Brainerd operation would be regulated by the inclusion of the 10 named counties proposed herein to be included in the marketing area. However, as a matter of public knowledge, the Grade A operation of this plant has been closed, and the associated fluid milk sales have been absorbed in the operations of other handlers. The Meadow Gold Dairies was not represented at the hearing and no post-hearing brief was filed to indicate the position of this handler with regard to the issues under consideration.

In St. Louis County, 85 percent of the total fluid milk sales are made by regulated handlers. There are four unregulated plants in this county; milk from these plants is distributed in Itasca and St. Louis Counties. Operators of the four plants oppose the regulation of Itasca and St. Louis Counties.

The populated areas in St. Louis County include the city of Duluth with a population of 105,000, Hibbing Village, 16,000, Virginia, 12,450, and Chisholm, 5,913. The unregulated fluid milk distributors in St. Louis County are clustered along U.S. Route 169 about 60 miles north of Duluth. The Island Farm Creamery Company is located at Hibbing; Aysta Dairy at Virginia; the Mesaba Dairy at Chisholm; and Wiinanen Dairy at Iron.

A representative of Island Farm Creamery Company, testifying also for the other unregulated handlers in St. Louis County, acknowledged competing with several regulated handlers in areas he serves in Itasca and St. Louis County. He claimed that the "Iron Range" unregulated milk plants process at least 50 percent of the total milk sold in Grand Rapids, which includes about half the total population of Itasca County (17,570). He also claimed that over half the milk sold in other small communities, including Cooley, Coleraine, Marble, and Bovey, in Itasca County, and Hibbing in St. Louis County, also is sold by the Iron Range milk distributors. The combined 1970 poulation of these communities is about 18,000. Further the witness claimed that a jobber for Island Farms, together with the Wiinanen and Aysta operations, has about 50 percent of the total sales in Virginia, a city of 12,450 in St. Louis County.

The Island Farm Creamery and the other unregulated plants distributing fluid milk in the St. Louis-Itasca area receive milk from dairy farmers and, in the short production season, obtain supplemental milk supplies from Order 68 sources, including two cooperative associations that are proponents of regulation of St. Louis and Itasca Counties. Thus, the four unregulated handlers are relying on the regulated markets to carry reserves for their operations. These unregulated handlers do not pay dairy farmers for milk on a classified-use basis. The witness for Island Farm Creamery indicated his price to farmers is essentially geared to uniform prices of regulated markets that reflect a much larger proportion of milk in manufacturing use than in his operation.

In these circumstances, prices paid by handlers doing business in Itasca and St. Louis Counties are not uniform as between regulated and unregulated plants; producers are not being paid the full classified use value for milk supplied to the unregulated plants; and the proceeds from the higher valued fluid milk sales and the burden of carrying the reserve milk supply is not being shared equitably as between producers supplying regulated plants and those supplying unregulated plants. Full regulation of this territory would assure uniformity of prices to all handlers doing business in the area, as well as uniformity of returns to all producers supplying milk for sale in the area.

It is concluded, therefore, that Itasca and St. Louis Counties should be included in the marketing area of the merged order. It is further concluded that the Minnesota counties of Lake and Cook also should be included in the designated marketing area of the merged orders.

The Twin Ports-Arrowhead Cooperative Dairy proposed that the two counties (Lake and Cook), together with other specified territory in Minnesota and Wisconsin, be included in an expanded marketing area for the Duluth-Superior Order 69. Since the Duluth-Superior marketing area would be in the merged marketing area, it is necessary to consider whether Lake and Cook Counties should be included also.

These two counties, in the northeastern part of the state, are bounded on the north by the Canadian border, on the south by Lake Superior, and on the west by St. Louis County.

The representative for the Twin Ports-Arrowhead Cooperative Dairy testified that regulated handlers distribute all fluid milk products sold in Cook County and about 80 percent of the total fluid milk sales in Lake County. Unregulated handlers, this witness testified, have some fluid milk sales in Lake County.

There are no known milk plants located in Lake and Cook Counties. Both counties are small in terms of population. Cook County in 1970 had a population of 3,423 and Lake 13,351.

The unregulated handlers who have sales in Lake County were not identified, but could be one or more of the unregulated handlers with plants in St. Louis County. The regulation of these two counties likely will assure that such unregulated plants will have their entire sales distribution in the regulated marketing area. There was no opposition to the proposals to regulate Cook or Lake Counties.

SOUTHWESTERN MINNESOTA-EASTERN SOUTH DAKOTA

The 11 counties proposed for regulation in southwestern Minnesota are Chippewa, Jackson, Lac Qui Parle, Lyon, Murray, Nobles, Pope, Swift, Yellow Medicine, Pipestone, and Lincoln. There was no opposition expressed to regulation of milk handled in the unregulated southwestern Minnesota territory.

At the time of the hearing, milk distributed in these unregulated counties was from several regulated handlers and one plant not regulated by a Federal order, Oak Grove Dairy (Plant No. 2) in Norwood, Minnesota.

The Oak Grove Dairy operates two plants at Norwood, one plant being a fully regulated distributing plant under Order 68, and the other, referred to as Plant No. 2, operating at the time of the hearing as a nonpool distributing plant. (In a post-hearing brief filed by one of the merger proponents, it was noted that all sales of Oak Grove Plant No. 2 had become fully regulated after the hearing.) A witness for one of the merger proponents estimated that the Oak Grove Plant No. 2 receives Grade A milk daily from about 30 dairy farmers.

Packaged fluid milk products processed at this plant are distributed in all 11 counties in southwestern Minnesota. In addition, milk is distributed from this plant in several of the unregulated counties in northern Minnesota that are herein proposed for regulation.

Fluid milk products also are distributed in the 11 southwestern county area by handlers regulated under Orders 60, 61, 68, and 76. Order 68 handlers distributing in this unregulated territory include: Clover Leaf Creamery Company of Minneapolis; Ewald Brothers, Inc., of Minneapolis; Land O'Lakes, Inc., of St. Paul; Purity Milk Co., St. Cloud; Fairmont Foods, Inc., of Minneapolis; and Minnesota Milk Co. of St. Paul. Two Order 60 regulated handlers, Cass Clay Creamery, Inc., of Fargo, North Dakota, and Fairmont Foods, Inc., Moorhead, Minnesota, also distribute in this area.

Order 61 regulated handlers with distribution in these southwestern Minnesota counties include: Marigold Foods, Inc., Rochester, Minnesota; Sanitary Dairy, Sleepy Eye, Minnesota; and Golden Dairy, Austin, Minnesota. One Order 76 regulated handler, Land O'Lakes, Inc., Sioux Falls, South Dakota, distributes fluid milk products in 10 of the 11 proposed southwestern counties, Swift County being the exception.

In April 1974, regulated handlers under Orders 60 and 68 together distributed about 1.7 million pounds of fluid milk products in these unregulated southwestern Minnesota counties. Similar data for Orders 61, 69, and 76 is restricted because of the limited number of handlers regulated under those orders selling into this unregulated territory.

Estimates of the percentage of fluid milk sales in each of the counties in the southern sector were made by two producer groups. It is apparent from the data placed in the record that presently regulated handlers have 50 percent or more of the total sales in each of these counties.

A milk distributor at Le Mars, Iowa, regulated under the Nebraska-Western Iowa Order 65, testified to having sales in the counties of Jackson, Pipestone, Nobles, Murray, and Lyon. The La Mars

handler favored the regulation of these specified counties under an order, without suggesting any particular order or merged group.

The unregulated county of Lincoln, Minnesota, is contiguous to Brookings County, South Dakota. South of Lincoln County, the Minnesota counties of Pipestone and Nobles border on the present Order 76 marketing area. Seventy percent of the fluid milk sales in Nobles County are distributed by a Sioux Falls pool distributing plant. In the counties of Pipestone and Lincoln, about 50 percent of the total sales also are from the Sioux Falls pool plant. Some sales in the three Minnesota counties originate from milk distributors regulated under Orders 65 and 68.

The regulation of milk marketed in the South Dakota counties of Brookings and Deuel was proposed by the National Farmers Organization. A representative of Lakeside Dairy Company, Sioux Falls, South Dakota, testified in support of regulation of Brookings and Deuel Counties, but was indifferent as to the order under which the two counties should be regulated.

Brookings and Deuel Counties are bounded by the present Order 76 marketing area on the south and west, and on the north by the Order 60 marketing area. The eastern boundaries of the two counties are contiguous with the 11-county southwestern Minnesota territory proposed for inclusion in a merged order. Brookings and Deuel Counties had a 1970 population of 22,000 and 5,700 respectively.

Milk not regulated by any Federal order is marketed by one dealer in Brookings and Deuel Counties. This is the Bibby-Kallenmeyer Dairy (commonly referred to as the B.K. Dairy) at Brookings that is partially regulated under Order 76 by virtue of route sales in the Order 76 marketing area. About 60 percent of the fluid milk sales in Deuel and Brookings Counties are made by B.K. Dairy. Terrace Park Dairy, Sioux Falls, South Dakota, regulated under Order 76, and Marigold Food, Inc., Rochester, Minnesota, regulated under Order 61, each have 20 percent.

The B.K. Dairy did not provide testimony at the hearing and filed no post hearing brief that would indicate its position as to the regulation of the two counties.

Besides milk purchased from dairy farmers, the B.K. Dairy has obtained supplemental supplies of milk regulated under Order 76 through Land O'Lakes, a regulated handler. Such supplemental purchases have amounted to 30,000 pounds weekly in the short production season. The B.K. Dairy, thus, is relying on the regulated market to carry its reserve supplies, and the producers under Order 76 are receiving the lowest class price for such volume when it is not needed by the B.K. Dairy. At the same time, the B. K. Dairy, having a very high proportion of its dairy farmer receipts used in fluid sales, is able to pay a price to such dairy farmers competitive with the uniform price of the order without paying a price reflective of the classified use value of such milk. In these circumstances, the B. K. Dairy has a cost advantage relative to regulated handlers and the dairy farmers who supply the plant are not receiving the full value of their milk according to the class of use.

The sales area of the B. K. Dairy overlaps with handlers regulated by the Eastern South Dakota order. Procurement areas of such regulated handlers also extend into Deuel and Brookings Counties and adjoining counties. There was no opposition to the regulation of the two South Dakota counties.

It is concluded in light of the considerations set forth herein, that the Minnesota counties of Nobles, Pipestone, and Lincoln, and the South Dakota counties of Brookings and Deuel, are a logical extension of the Order 76 marketing area and appropriately should be incorporated thereunder.

Regulated handlers are estimated to market from 80 to 85 percent of the total fluid milk products sold in Houston County, in the southeastern corner of the state. Two regulated handlers, the Land O'Lakes plant, St. Paul, Minnesota (regulated under Order 68), and the Marigold Foods, Inc., plant at Rochester, Minnesota (regulated under Order 61), are marketing milk in this county. Doing business in this same county is the Schiltz Farms, Inc., at Caledonia, Minnesota, a producer-handler who has sales in the Order 61 and Order 30 marketing areas. Also, the Oak Grove Plant No. 2 of Norwood, Minnesota, has distribution in Houston County.

It is concluded, for the identical reasons advanced by proponents for annexing the 11 southwestern Minnesota counties, that Houston County should be included in the marketing area of the merged order.

4. (a) *Milk to be priced and pooled.* It is necessary to designate clearly what milk and which persons would be subject to the merged order. This is accomplished by providing definitions to describe the persons, plants, and milk to which the applicable provisions of the order relate.

The following provisions included in the proposed order will serve to identify the specific types of milk and milk products to be subject to regulation and the persons and facilities involved with the handling of such milk and milk products. Definitions relating to handling and facilities are "route disposition," "plant," "pool plant," and "nonpool plant." Definitions relating to milk and milk products include "producer milk," "fluid milk product," "fluid cream product," "filled milk," and "other source milk." A number of these definitions were of particular issue at the hearing and are discussed below.

Plant. A "plant" definition should be provided for the purpose of designating the type of handling facilities to which the order provisions would apply. As defined under the merged order, a plant would be the land, buildings, facilities, and equipment that constitute a single operating unit at which milk or milk products are received, processed, or packaged. Separate facilities used solely as intermediary distribution points in the disposition of packaged fluid milk products would not be plants. Similarly, separate facilities without stationary storage tanks that are used only as a reload point for transferring bulk milk from one tank truck to another would not be a plant as defined herein.

None of the four orders provide for the pricing or pooling of milk at a reload point. The Minneapolis-St. Paul and Minnesota-North Dakota orders specifically exclude reload points for such purpose in the "plant" definition, while the Southeastern Minnesota-Northern Iowa order does so in the "pool plant" definition. The Duluth-Superior order does not specifically exclude a reload point as a "plant" or "pool plant," but neither does it provide for the pooling of such facilities.

It is not intended under this order that facilities that are used only for the reloading of milk from one tank truck to another be the pricing point for milk so handled. These facilities must be distinguishable, however, from facilities at which milk handled is to be priced.

It is not usual for a reload point to have stationary storage tanks for the holding of milk for one or two days. Rather, it is customary for milk that has been picked up at the farm by several tank trucks to be brought to the reload point and transferred directly to a large over-the-road tank truck for movement to processing plants. Accordingly, the absence of any stationary storage tanks is a reasonable means of identifying a reload facility.

Situations could arise where the individual producer identity for milk handled at reload points is lost. Some of the milk on a farm pick-up tanker could be reloaded onto an over-the-road tank truck and delivered to a pool plant while the remaining milk on the farm truck is held overnight in a tank truck and perhaps transported to another plant (either pool or nonpool) the next day. In this situation, it is not possible to know which producer's milk was delivered to which plant on which day. It is necessary, nonetheless, for the order to provide for the pricing of the milk of those dairy farmers at a plant location. Under these circumstances, the milk of individual producers involved appropriately should be prorated between the plants at which their commingled milk was received.

As described later in this decision, it is provided that milk picked up at a producer's farm during the month in a tank truck owned and operated by, or under the control of, a handler (including a cooperative association in its capacity as a bulk tank handler) but which is not received at a plant until the following month shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm and shall be priced at the location of the plant where the milk is physically received in the following month. These guidelines are discussed

later in more detail under the heading "Producer milk."

Pool plant. Essential to the operation of a marketwide pool is the establishment of minimum performance standards to distinguish between those plants engaged in serving the fluid needs of the regulated market and those plants that do not serve the market in a way or to a degree that warrants their sharing (by being included in the pool) in the Class I utilization of the market. The pooling standards for distributing plants, supply plants, and reserve supply plants that are contained in the attached order have been structured to accomplish this.

The "pool plant" definition adopted herein sets forth all of the various performance standards that plants must meet to qualify for pooling. For this reason, definitions of a "distributing plant" and a "supply plant," as contained in the individual orders, except the Minneapolis-St. Paul order, are not needed. Reference is made in this decision to such types of plants, nevertheless, since the adopted pooling standards relate to plants performing different types of functions in the market.

A requirement now common to all types of pool plants in the four individual orders is that the plants be approved by a duly constituted regulatory agency for the handling of Grade A milk. It was pointed out at the hearing that this requirement allows certain distributing plants without Grade A certification to escape regulation under the order since the State of Minnesota allows the bottling and distribution of non-Grade A milk. Under these circumstances, regulation under the existing orders can easily be evaded by a plant operator simply not requesting that his plant be approved for the distribution of Grade A milk. In this way, even though a plant handles only Grade A milk, the plant operator can gain a considerable price advantage over competing regulated handlers who are required to pay the Class I price for milk used for fluid use.

To assure equal treatment for all handlers competing in the fluid milk market and full equity among producers, the order should regulate distributing plants without regard to whether they have Grade A certification. It is principally the job of the State and local regulatory agencies to provide minimum quality standards for milk sold within their jurisdiction, while the Federal order assures a sufficient quantity of such milk through orderly marketing conditions and minimum prices to producers.

The order, however, should continue to assure minimum prices only to producers of Grade A milk, since only Grade A milk is allowed to be distributed in most of the marketing area. The cities of Moorhead, Minneapolis, St. Paul, Rochester, and St. Cloud, Minnesota; Fargo and Grand Forks, North Dakota; Aberdeen, South Dakota; Stacyville, Iowa; and Eau Claire and Superior, Wisconsin, all have Grade A ordinances that require fluid milk plants to be approved for distribution of Grade A milk. Thus, only Grade A milk should be pooled and priced under the order. In the event any ungraded milk is assigned to Class I, such milk should be considered "other source milk" to be accounted for by the handler to the pool at the difference between the Class I price and the uniform price. The order would have no jurisdiction over prices paid to producers of ungraded milk, however.

In the situation existing in this merged marketing area, it is unlikely that a handler could secure a supply of milk for bottling use at less than the uniform price under the order. Under such circumstances, a pool payment at the difference between the Class I price and the uniform price will reasonably neutralize any competitive price advantage a handler might otherwise gain by the use of other source milk.

The agency responsible for approving a plant for the handling of Grade A milk may not always be a designated health authority. In some states, for example, this function is the responsibility of the State Department of Agriculture. Therefore, the term "regulatory agency," rather than "health authority," as used in the present orders, is a more appropriate description of the agency controlling the approval of milk for disposition in the marketing area.

The following discussion sets forth the pooling standards that should apply to the several types of plants. To facilitate discussion, it is noted that the pooling standards for a distributing plant, a supply plant, or a reserve supply plant provide that the plant's required association with the market shall be measured in terms of the proportion of its receipts that is disposed of from the plant. It is intended that such receipts shall include any producer milk that is diverted from the plant by the plant operator to other plants. Although diverted milk is not physically received at the plant from which diverted, it is, nevertheless, an integral part of that plant's supply of milk and acquires pool status by virtue of its association with such plant. Therefore, to protect the integrity of the regulation, diverted milk must be included as a receipt for purposes of establishing the diverting plant's qualification for pooling. Otherwise, the performance standards prescribed would have no real meaning.

Conversely, milk received at a pool plant by diversion from a pool distributing plant would not be included in the divertee plant's receipts for the purpose of measuring such plant's association with the market. Thus, when referring herein to a plant's receipts used in computing pooling percentages, it is intended that such receipts include producer milk diverted from the plant by the plant operator, but exclude milk received at such plant as diverted milk.

Under the adopted pooling standards, any distributing plant would be a pool plant if, during the month, its total route disposition as a percent of its total receipts is at least equal to the marketwide Class I utilization during the same month of the preceding year, and if 15 percent of its receipts is disposed of as route disposition in the marketing area.

All of the major proponents proposed a 15 percent in-area route disposition standard. Two of the three proponents proposed a variable schedule for total route disposition, with a 30 percent requirement during the months of January through June, and a 40 to 50 percent requirement during the remaining months of the year.

It is desirable to have seasonal variation in pooling standards since production varies seasonally while fluid demand is relatively stable throughout the year. The provision recommended herein ties the total Class I disposition standard to the Class I utilization of the market and accordingly, does provide a variable pooling standard reflecting seasonality of production.

Distributing plants generally receive more milk during the spring flush production months than during the short production months of fall and early winter. While their Class I disposition remains fairly stable throughout the year, the percent of their milk supply used in Class I does not.

The minimum overall Class I distribution requirement should be related to the marketwide Class I utilization, since a distributing plant operator with Class I business both within and outside the marketing area, otherwise could adjust his own sales and receipts to insure that his Class I utilization fell below the minimum requirement for pooling, even though higher than the marketwide utilization. Although the utilization value per hundredweight of milk in such a plant would be higher than the marketwide uniform price, the plant operator would not be required to pool his higher-than-average use value with other market participants or to make pool payments on his out-of-market sales; thus, there would not be full marketwide pooling of proceeds among producers. Moreover, the operator of such a partially regulated plant could use his higher-than-average use value as an advantage in solicitation of producers.

A distributing plant which does not meet the minimum pooling standards would be subject to regulation only on its in-area sales (not offset by Class I milk purchased from regulated plants). The order requires the operator of a partially regulated distributing plant to make a pool payment on such in-area sales from the plant equal to the difference between the order's Class I price and blend price. As an alternative, the plant operator could pay his dairy farmers the classified use value for all receipts. These payment arrangements have been applicable under the individual orders for many years.

Since changes in Class I utilization throughout the year normally follow a predictable pattern, it is reasonable to use the marketwide Class I utilization percentage for the same month of the preceding year as the standard in determining which distributing plants are eligible to pool during the month. The monthly utilization percentage for the market in the previous year would not differ appreciably from the corresponding current month.

The weighted average Class I utilization for the four markets during the months of 1974 ranged from 25 percent in June to 42 percent in October. Although these standards are more stringent than those now contained in the Minnesota-North Dakota order (20 percent March–June and 25 percent July–February), it is not expected that any distributing plants now regulated under that order (or any of the other three orders) will lose their status as fully regulated plants under the merged order.

Mid-America Dairymen, Inc., proposed retention of a provision now in the Minnesota-North Dakota order under which the operation of all distributing plants operated by the same handler may be combined and treated as a single plant for the purpose of determining such plants' pooling status, if so requested by the handler. This provision is not necessary for the merged order since any distributing plant in the marketing area that is unable to meet the pooling standards set forth above likely would qualify for pooling under the additional standards discussed below.

Proponents proposed retaining the basic features of the supply plant pooling standards now contained in the Minneapolis-St. Paul order. They proposed variable supply plant shipping standards, with greater shipment requirements during the short production months than during the flush production months of the year. Also, two of the proponent cooperatives proposed retention of the "unit pooling" of supply plants now contained in the Minneapolis-St. Paul order. Unit pooling allows two or more supply plants to be combined as a "unit" for the purpose of meeting pooling standards. Another feature of these proposals that is now part of the Minneapolis-St. Paul order provisions would allow direct shipments of milk from the farm to a distributing plant to count as a qualifying shipment for a supply plant under certain circumstances.

This type of supply plant provision has evolved with the change from can to bulk tank handling of milk. With the advent of bulk tank handling, the role of supply plants as an assembly point for milk received directly from the farm has largely given way to the role of "balancing plant", processing the market's reserve supplies when not needed for fluid use. This is because, with bulk tank handling, it is usually less costly to move milk directly from the farm to distributing plants than it is to first assemble the milk at a supply plant and then transfer it to a distributing plant. Despite this change, some supply plants still perform valuable milk handling functions in the market, such as standardizing milk or storing milk for a temporary period to accommodate the bottling needs of a distributing plant.

In recognition of widespread bulk tank handling, pooling standards for plants other than distributing plants in some orders have been modified to provide that such plants may be pooled on the basis of milk shipped directly from farms to pool distributing plants or on the basis of shipments from other plants in a unit of plants. In lieu of these specific types of provisions, two different provisions are provided to accomplish the same end: one for a "supply plant" that regularly ships fluid milk products to pool distributing plants and one for a reserve supply plant."

The supply plant pooling standard adopted herein for the merged order is based on shipments from the plant to pool distributing plants. The shipping standard for each month is the market-wide Class I utilization during the same month of the previous year. Although this shipping standard is more stringent than was proposed by proponents, it is expected that most plants in the marketing area (which is essentially coextensive with the procurement area for handlers serving the market) not qualifying as distributing plants will qualify as reserve supply plants rather than as supply plants.

The merged order area has a great deal more Grade A milk than can be used by distributing plants in the area. Under the current provisions of the four individual orders, certain supply plants in the area have not been able to find distributing plant outlets through which to acquire pool status. Frequently, such plants have been able to acquire pool status in other markets, such as the Southern Illinois and Kansas City markets. However, proponent witnesses stated that blend prices under these markets, adjusted to their plant location, have often times been lower than the blend prices available if the plant were pooled locally.

Pressures to pool likely will increase in the future as Grade B milk continues to convert to Grade A and seeks a share of the fluid market. Thus, it is apparent that pooling standards that will accommodate the pooling of most of the Grade A milk produced within the marketing area are needed for the merged order in the interest of continuing orderly marketing. However, such pooling standards must be so structured that supplies are made available to the fluid market as needed.

It is proposed, therefore, that any plant located in the marketing area and approved by a duly constituted regulatory agency for the handling of Grade A milk be allowed to pool if certain conditions are met.

To assure that the milk included in the pool is, in fact, available for the fluid market, it must be established that the plant can serve the fluid market if milk is needed. If the quality of milk needed through a reserve supply plant is not sufficient for bottling purposes, or if the quantity of Grade A milk there handled is too small for economic transport to a distributing plant, the milk associated with such plant could not reasonably be considered a part of the reserve supply for the fluid market. As evidence of a plant operator's ability and willingness to supply milk for fluid use, at least one tank truck load of milk (at least 45,000 pounds) must have been shipped from the plant to a pool distributing plant or to a comparable plant under another Federal order within the past twelve months as a condition for pooling initially. Once qualified as a pool plant, the plant operator need not ship milk to a pool distributing plant unless called upon, as explained below. However, if the plant should lose its pool status as a reserve supply plant, if would again have to meet the one tank truck load shipping requirement within the last twelve months before being requalified.

The operator of a reserve supply plant must agree to supply milk from the plant to pool plants or other order plants whenever the market administrator announces that such shipments are needed. To this end, it is provided that the market administrator may announce a shipping requirement, which may not exceed the percentage of shipments required of a pool supply plant during the month, any time he finds that supply-demand conditions warrant such shipments. He may reach this conclusion after investigating—either on his own initiative or at the request of interested persons—the supply-demand conditions in the market.

To promote the most efficient marketing of milk, the market administrator may restrict his shipping requirement to the smallest part of the marketing area necessary to secure the needed milk supplies. This procedure will circumvent the possibility of requiring needless shipments from those plants least favorably located with respect to distributing plants, unless and until the more favorably located reserve plants have shipped at least the market's average Class I utilization. This procedure will insure maximum transportation savings.

A plant which does not comply with a shipping requirement prescribed by the market administrator would lose its pool status for the month in which it fails to comply. Moreover, such plant may not again qualify as a pool plant under this provision for a period of one year from the date on which pool status was lost.

A plant that was not a pool plant under the Upper Midwest order during each of the months of September through December should not be allowed to pool as a reserve supply plant during the following months of January through June. This requirement, which will not become effective until January 1, 1977, is necessary to deter the use of the Upper Midwest market as a "dumping ground" during the flush production months for milk associated with other markets during the months of short supply.

It is not uncommon, during short production months, for significant amounts of milk to be moved from the upper midwest area to various markets to the south. In some instances, this could entail the pooling on another market of a plant located in the Upper Midwest marketing area. After the short season is over, rather than keeping the plant pooled on the receiving market, the plant operator, without appropriate safeguards, could request and acquire pooling status for such plant under the Upper Midwest order. In such event, the producers on the Upper Midwest market

would bear the burden of carrying this milk during the flush season, even though they had not shared in the higher proceeds available to this plant during the fall.

Under usual circumstances, shipments to outside markets by any particular plant would not be expected to be sufficient to meet the pooling requirements of another market. However, if a reserve supply plant does serve a particular market during the short season to a degree requiring pooling there, it should remain associated with that market during the remaining months of the year.

Since the merged order will likely become effective shortly after the most current September-December period has ended, this provision should not become effective until January 1, 1977. This will allow plants that could not have pooled under any of the separate orders in their present form to become pool plants under the merged order when it is effectuated.

The operator of a plant seeking to pool as a reserve supply plant must file a request for pooling with the market administrator at least 15 days prior to the date on which pool status is desired effective. This 15 day notice will allow the market administrator to inspect the plant and facilities and determine the plant's ability to meet the requirements discussed above. Once qualified as a pool reserve supply plant, such status will continue to be effective unless the operator requests nonpool status for the plant prior to the first day of the month for which nonpool status is requested, the plant subsequently fails to meet all of the conditions for pooling as a reserve supply plant, or the plant qualifies as a pool plant under another order.

The pool plant provisions specify that a reserve supply plant may not acquire pool status under this order if such plant is a pool plant under some other order. Under normal circumstances, a plant meeting the pooling standards of two orders is pooled in the market with which it has the more substantial association. Any plant pooled under another order, therefore, should be exempted from regulation under this order.

Land O'Lakes, Inc., proposed the pooling of a plant that failed to meet the pooling standards of a distributing plant or supply plant because of a strike, fire, riot, insurrection, breakdown of trucking equipment, hazardous road conditions, natural calamity, or other misfortunes beyond the control of the plant operator. Such proposed provision would not be limited to one month but would apply for an indefinite period, according to a LOL witness.

This proposal should not be adopted. However, a slightly different Land O'Lakes proposal, which would pool a distributing plant that met the pooling standards during the immediately preceding three months, should be adopted in modified form. As adopted herein, any distributing plant or supply plant that failed to meet the performance standards in the current month, but that had met such standards during each of the immediately preceding three months, would be pooled.

Producers should have protection against unexpected loss of pool participation of their milk because a distributing plant or supply plant, over which they have no control, failed to qualify as a pool plant. However, the "natural calamity" provision proposed by Land O'Lakes provides too much of an "open door" and could be subject to abuse. As proposed, a plant could conceivably qualify for pooling indefinitely while out of operation.

Allowing a plant that failed to meet the pooling standards for the month to be a pool plant if it met the requirements in each of the three preceding months is a reasonable and equitable basis for protecting producers' interests. It will afford handlers the opportunity to make corrective adjustments in their operations in the event of unanticipated circumstances or a miscalculation; and, in the case of a "natural calamity", it will afford producers reasonable opportunity to find an alternative pool outlet for their milk without losing pooling privileges in the interim.

One handler representative proposed a provision that would pool all Grade A plants in the marketing area with no performance standards to meet. However, in paying producers under this proposal, the uniform price would be adjusted upward in direct relation to a plant's Class I utilization: the higher the plant's Class I utilization, the greater would be the adjustment in price. This was intended to assure that milk would be made available for Class I use. Since this arrangement would clearly be in violation of the Agricultural Marketing Agreement Act, which requires uniform prices to producers "irrespective of the uses made of such milk by the individual handler to whom it is delivered", the proposal must be denied.

Nonpool plant. The "nonpool plant" definition of the merged order should specify those categories of plants other than pool plants. The four constituent orders now have identical "nonpool plant" definitions, with the exception of Southeastern Minnesota-Northern Iowa, which additionally defines an "exempt governmental plant" as a nonpool plant. The Minneapolis-St. Paul and Minnesota-North Dakota orders also exempt from regulation a plant owned and operated by a government agency, the former in the "handler" definition and the latter in the "pool plant" definition. Therefore, it is appropriate to include in the "nonpool plant" definition this exclusion from regulation of a plant owned and operated by a governmental institution which disposes of Class I milk solely for use on the premises of the institution or to its own facilities.

Handler. The impact of regulation under an order is primarily on handlers. The handler definition identifies persons who will have responsibility for filing reports and/or making payments for milk under the merged order.

Accordingly, the order should designate handler status for the following persons:

(1) The operator of a pool plant;

(2) A cooperative association with respect to milk that is diverted for its account;

(3) A cooperative association with respect to bulk tank milk picked up at the farm for delivery to a pool plant under specified circumstances;

(4) The operator of a partially regulated distributing plant;

(5) A producer-handler;

(6) The operator of an other order plant from which milk is disposed of in the market; and

(7) The operator of an unregulated supply plant.

Such persons are now defined as handlers under the four individual orders with the exception of the operator of an unregulated supply plant, who is now defined as a handler only under the Minneapolis-St. Paul order. The latter order also contains an unusual condition for qualification of a cooperative association as a handler on bulk tank milk. Under that order, a cooperative association must be the operator of a pool plant in order to acquire handler status on bulk tank milk delivered for its account from the farms of producers to the pool plants of other handlers. This provision should not be adopted for the merged order. Proponents generally agreed that a cooperative association's function as a bulk tank handler should not be contingent upon its operation of a pool plant.

A cooperative association's status as a handler for farm bulk tank milk should be modified from that now set forth in the individual orders. In the case of bulk tank milk, a cooperative should be a handler with respect to any such milk which it receives for its account from the farm of a producer for delivery to a pool plant of another handler in a tank truck owned and operated by, or under the control of, such cooperative. However, if there is a mutual arrangement between the cooperative and the plant operator, noticed to the market administrator, whereby the plant operator will be the handler for such milk and will purchase such milk on the basis of weights determined from its measurement at the farm bulk tank samples, the cooperative need not act in a handler capacity with respect to such milk.

When the milk of any producer is commingled in a tank truck with that of other producers, the identity of the individual producer's milk is lost. The amount of the producer's milk in the truck and the butterfat content thereof can be determined only from measurement of the milk at the farm and from milk samples taken from the farm tank. After the milk has been pumped from the individual producers farm tank into the tank truck of the hauler and commingled with the milk of other producers, there is no opportunity to measure, sample or reject the milk of an individual producer.

Much of the milk received at pool plants in the proposed marketing area is picked up at the farm in trucks owned or operated by, or under the control of, cooperative associations. In this case, it is only the association that has the opportunity to measure and sample the

milk of individual producers that is received at the pool plant. In the absence of any agreement by the plant operator to be the handler for the milk, the association necessarily must be the responsible handler for the milk as it leaves the farm.

When a cooperative is the handler for farm bulk tank milk, certain accounting and payment procedures should apply under the merged order with respect to such milk. As provided in the attached order, the milk would be considered as a receipt of producer milk by the cooperative at the location of the pool plant to which the milk is delivered. The purchase of such milk by the pool plant operator would be treated as an interhandler transfer but would be classified pro rata with producer milk that the pool plant operator may receive. The pool plant operator would be obligated to the producer settlement fund for the milk received directly from producers and by transfer from bulk tank cooperative handlers at its classified use value. The cooperative in turn would be reimbursed by the handler at the blended price. Milk which the cooperative has picked up from the farm bulk tank and which has not been delivered to a plant during the month will be accounted for by the cooperative as ending inventory and the cooperative will be paid the blended price applicable at the location of the plant of physical receipt in the following month. In the following month, the cooperative's pool obligation will be adjusted to reflect the value of such inventory at the Class III price for the previous month. This is in contrast to the procedure under the Minneapolis-St. Paul, Minnesota-North Dakota, and Duluth-Superior orders whereby the cooperative association accounts to the pool at class prices for the milk delivered to pool plants. Under the Southeastern Minnesota-Northern Iowa order, the milk delivered by a cooperative is now treated as a receipt of producer milk by the plant operator, who then is obligated to the pool for such milk.

The adopted accounting and payment procedure will facilitate administration of the order with respect to matters of financial responsibility and audit adjustments. It is the pool plant operator who processes the milk and distributes it to consumers. It is reasonable, then, that the responsibility for accounting for the utilization of such milk and for its payment be placed directly on the plant operator. Were settlement with the pool to be made by the cooperative association, i.e., should the plant operator settle with the cooperative at class prices and the cooperative pay to the producer-settlement fund, an unnecessary third party is involved in the transaction. Also, the handling of audit adjustments that might result from the verification of a plant's utilization of milk. An error in the reported classification of milk at the pool plant, for example, would not require a related adjustment in the cooperative's classification of milk and thus its obligation to the pool for such milk.

A pool plant operator receiving farm bulk tank milk from a cooperative also should be responsible for paying to the market administrator the administrative assessment on such milk. The audit and verification activities of the market administrator relate essentially to the operations of the pool plant where the milk is processed. As in the case of producer milk which he receives from the farm, the plant operator thus should pay his pro rata share of the administrative costs on milk received from the cooperative in its capacity as a bulk tank handler.

When the cooperative assumes its role as the responsible handler on farm bulk tank milk, the pool plant operator may buy such milk on the basis of weights and butterfat tests determined at the plant rather than on the basis of those determined at the farm. Usually, the quantity of milk picked up at the farm slightly exceeds the quantity ascertained as actually received at the plant. In such cases, the difference should be considered as a receipt of producer milk by the cooperative association at the location of the pool plant where the milk in the tank truck was delivered. The cooperative should be obligated to settle with the producer-settlement fund and to pay the administrative assessment on the milk involved.

The pool plant operator should be permitted under the merged order to be the responsible handler on bulk tank milk moved by the cooperative from the farm to the plant if both the cooperative and the pool plant operator notify the market administrator that they have agreed to such a handler arrangement and that the plant operator agrees to purchase the milk on the basis of weights and tests determined at the farm. Under this arrangement, the pool plant operator would be responsible for the milk in the same manner as for producer milk that he receives at his plant directly from the farm. This would include being responsible for submitting to the market administrator monthly reports showing for each producer the farm weights and tests of milk received at his plant.

A cooperative association also should be a handler with respect to the milk of a producer which is diverted for the account of the association from a pool plant of another handler to a nonpool plant that is not a producer-handler plant. All the orders proposed to be merged provide that a cooperative may act as a handler for diverted milk. Continuation of this handling arrangement will facilitate the movement of milk not needed for fluid use to nonpool plants for manufacturing.

The merged order should afford all cooperatives in the market flexibility in the arrangements under which they sell milk to pool plants or dispose of reserve supplies. If it so chooses, a cooperative should be able to pick up the milk of nonmember producers along with the milk of its members for delivery to a pool plant or for diversion to nonpool plants. This procedure will enable the cooperative to act as the marketing agent for a nonmember producer who, although he has not become a member of the cooperative, has contracted with the cooperative to act as the marketing agent for his milk. Nothing in the order would require a cooperative to pick up the milk of nonmember producers. It would provide, however, that when a cooperative does pick up milk of nonmember producers on trucks under its control it must assume varying degrees of responsibility with respect to such milk, depending on the handling arrangements made.

The Capper-Volstead Act provides the criteria by which cooperative associations are determined to be qualified cooperatives under the Agricultural Marketing Agreement Act. With the adopted handler definition, the merged order would be consistent with that provision of the Capper-Volstead Act which recognizes that cooperatives may "deal in the products of nonmembers" and which limits such dealings to amounts not greater in value than as are "handled by it for members."

A question may arise concerning payments to a nonmember producer if the cooperative is marketing such producer's milk. A cooperative may reblend proceeds due such nonmember producer with those paid to its member producers if the nonmember producer has signed a contract with the cooperative whereby he authorizes the cooperative to market his milk, collect payment therefor, and reimburse him on the same basis as though he were a member of the cooperative association. The contract between the cooperative and the nonmember producer must provide specifically for a payment reflecting: (1) The same blending of proceeds as is otherwise done for members; (2) the same treatment for withholding for capital (revolving fund); (3) the same right of liquidation of certificates issued for a revolving fund or other capital withholding; and (4) the same privilege of sharing and ultimate distribution of proceeds if and when such special distribution is made, such as dividends or returns of unused deductions. In the absence of such a written contract containing the terms set forth above, the cooperative, if authorized, nevertheless, to collect payment for his milk, would be required to pay a nonmember producer not less than the uniform price announced by the market administrator for the month.

Producer-handler. The merged order should continue the exemption now contained in each of the four individual orders of a "producer-handler" from the pooling and pricing provisions of the order.

Experience under the separate orders has demonstrated that effective regulation can be insured without the full regulation of individuals who process and distribute milk produced on their own farm and who buy no milk from other dairy farmers. Such operations are basically self-sufficient in that they rely primarily on their own farm production and assume the burden of maintaining the necessary reserve supply of milk asso-

ciated with their fluid milk operation and of disposing of any daily or seasonal surpluses they may produce.

As adopted herein, a "producer-handler" would be any person who operates a dairy farm and a processing plant, who receives no fluid milk products from sources other than his own farm production, pool plants of other handlers, and other order plants. Any receipts of nonfluid milk products could only be used to fortify fluid milk products received from his own farm, other pool plants, or other order plants. To qualify as a producer-handler, such person would have to provide proof satisfactory to the market administrator that the care and management of the dairy farm and other resources necessary for his own farm production of milk and the management and operation of the processing plant are the personal enterprise and risk of such person.

This producer-handler definition is essentially the same as the one now in the Minneapolis-St. Paul order and which was proposed by the National Farmers' Organization and Mid-America Dairymen, Inc. One slight difference is that the producer-handler would be allowed to receive fluid milk products from another order plant as well as from pool plants of other handlers. This point does not in any way threaten the integrity of the order, but it does allow for special circumstances where a producer-handler located on the edge of the marketing area might find it more convenient to purchase fluid milk products from a nearby other order plant than from a pool plant that is located farther away.

The proposed definition continues to forbid the receipt of nonfluid milk products for use in reconstituting fluid milk products, but such receipts are allowed for use in fortifying fluid milk products. Also, it retains the 50,000 pound limit on receipts of fluid milk products during the month from fully regulated plants.

Land O' Lakes proposed a 7,000 pound average per day limit on route disposition in the marketing area during the month. A LOL spokesman testified that the purpose of this limit would be to preclude the institution of large production, processing, and distribution complexes that could become a significant competitive force in the marketing area. This witness indicated that the producer-handlers now operating in the proposed marketing area are below this size and have not been a significant problem in the market.

No evidence was presented to show that a producer-handler distributing more than 7,000 pounds per day would be a disruptive factor in the merged market. No size limitations on producer-handlers are provided now under the individual orders. Therefore, a restrictive provision of this nature appears unneeded in the merged order at this time.

Under the merged order, producer-handler status would be contingent upon such person substantiating to the satisfaction of the market administrator that the operation of the dairy farm and processing plant in question are at his sole risk. As indicated, a producer-handler's exemption from the pooling and pricing provisions is predicated on the premise of self-sufficiency of the total operation. Accordingly, no other person should be permitted to share the risk involved with the operation of a producer-handler's farm or his plant. All resources necessary for his own farm production of milk and for the operation of the processing plant must be his personal risk. Similarly, all risk associated with the actual distribution on routes of the milk processed by the producer-handler must be his alone.

Producer. The term "producer" defines those dairy farmers who constitute the regular source of supply for the market. The producer definition provided herein follows closely the one proposed and supported by each of the merger proponents. It is virtually identical to the producer definitions in each of the four separate orders.

Producer status under the merged order should be provided for any dairy farmer who produces milk approved by a duly constituted regulatory agency for disposition as Grade A milk and whose milk is received at a pool plant directly from the dairy farmer or received by a cooperative association as a handler on farm bulk tank milk for a delivery to a pool plant. Producer status also should be accorded such a dairy farmer who has an established association with the market and whose milk is diverted to nonpool plants for surplus disposal. To determine a producer's association with the market and to insure the marketability of his milk in Grade A channels, it is reasonable to require that a dairy farmer's milk be received at a pool plant at least once before becoming eligible for diversion to a nonpool plant.

A producer-handler, who would have exempt status under the order, is expected from the producer definition. In addition, provision must be made to preclude the possibility of a dairy farmer being a producer under two orders with respect to the same milk. In this regard, the producer definition should continue the provisions of the present orders that exclude (1) a person with respect to milk which is received at a pool plant regulated under this order as diverted milk from a pool plant under another order if the dairy farmer whose milk is involved is a producer under the other order with respect to such milk and it is allocated to Class II or Class III use under this order, and (2) a person with respect to milk which is diverted to an other order plant from a pool plant regulated under this order if assigned to Class I milk under the other order.

Producer milk. The "producer milk" definition is intended to define that milk to be priced and pooled under the merged order. The definition adopted herein contains the basic features now in the individual orders and in the proposals by the merger proponents.

As provided herein producer milk would include milk received directly from a producer at a pool plant by the plant operator, milk picked up at a producer's farm during the month in a tank truck under the control of a handler that is received at a plant in the following month, and milk of a producer that is received by a cooperative association as a bulk tank handler for delivery to a pool plant. Producer milk also would include milk of producers that is diverted under specified conditions.

Producer milk should include milk picked up at a producer's farm during the month in a tank truck owned and operated by, or under the control of, a pool handler but which is not received at a plant until the following month. Such milk should be considered as having been received by the handler in the month it is picked up at the producer's farm and should be priced at the location of the plant where the milk is physically received in the following month.

Under the present accounting procedure in the respective orders, milk which is picked up at the farm in the current month, but which is not physically received at a plant until the following month, is treated as a receipt of producer milk in such following month. This procedure has presented substantial accounting problems, particularly when milk passes through a reload facility. In such instance, a portion of the pick-up tanker's load may be transferred to an over-the-road tanker and delivered during the month, while the remainder of the load may be held at the reload facility. While administrative guidelines have been adopted to insure uniform accounting procedures for such milk throughout the Federal order system, the procedures have not fully resolved the accounting problems to the satisfaction of affected parties. Further, individual producers have not understood the deferred settlement which results when milk picked up in the current month is not physically received at a plant during the month.

Dairy farmers need not be required to wait one and a half months before receiving the uniform price for milk that is picked up at their farms on the last day of a month but is not received at a plant until the following month. The accounting procedure will be simplified and should be more readily accepted if milk is pooled in all cases in the month in which it is picked up at the farm. The changes provided herein will permit the pooling of producer milk in the month it is picked up at the farm if the milk is received at a plant in the current or the following month. Milk not physically received at a plant in the current month will be included in the responsible handler's end-of-the-month inventory and will be priced at the location of the plant where the milk is physically received in the following month. Since this milk reasonably will be received at a plant on the 1st day of the following month, the handler will know the location of the plant of actual receipt in time to include this information in his monthly report, which he is required to file by the 10th day of the following month. If, however, none of the milk loaded into a pick-up

tanker is received at a plant, such milk will not be included in the responsible handler's report and he will have no pool obligation on it. This conforms with the present provisions, which tie the producer milk provisions to its receipt at a plant.

If the operator of a pool plant is the responsible handler, he will account for the producer milk which has not arrived at his plant by the end of the month as part of his end-of-the-month inventory and will be charged the Class III price in the month it is picked up at the farm. In the following month, this milk will be treated in the same manner as other fluid milk products he had in inventory.

If a cooperative association bulk tank handler is the responsible handler, such cooperative will account for the milk in transit as inventory at the Class III price and will be credited at the blend price. Additional conforming changes are needed to implement this procedure to insure that in the following month the cooperative is credited for its pool obligation in the preceding month on such milk. In such following month, this milk is included in the obligations of the pool plant handler who physically received it and he will account to the market administrator for this milk at the classified prices. Such monies would be deposited in the producer-settlement fund, but, since the milk was pooled in the preceding month, it would not be included in the pool computation of the current month.

Diversions of producer milk from a pool plant to a nonpool plant that is not a producer-handler plant, for the account of the handler operating the pool plant, are recognized within specified limitations. Similarly, diversions may be made for the account of a cooperative from the pool plant of another handler. Also, producer milk may be diverted from a pool distributing plant to any other pool plant for the account of the distributing plant operator.

Diversion provisions are desirable to facilitate the orderly and efficient disposition of the market's reserve supplies. When producer milk is not needed in the plant of normal receipt for Class I use, its movement to other pool plants or to nonpool plants for manufacturing, without loss of producer milk status, should be accommodated.

Since the merged market is expected to have a Class I utilization ranging from 25 percent in the spring to 40 percent in the fall, a substantial portion of the market's supply will likely be diverted to manufacturing outlets. To accommodate the pooling of all the milk that is available to supply the fluid market, the diversion limitation in any month should be equal to the combined Class II and III utilization in the same month of the prior year. (It will be necessary at the outset of this order for the market administrator to compute the weighted average Class II–III utilization of the four markets combined herein for the prior 12 months for use during the first year of the merged order.) This system will provide built-in flexibility, automatically providing for seasonal changes in supply and demand. It is not expected—with such a large market—that the utilization will change appreciably from one year to the next; thus, use of data for the same month of the preceding year should be entirely appropriate as a measure of the market's Class I needs.

The diversion limitations supported by two of the proponent cooperative associations in their briefs would allow diversions equal to 50 percent of producer receipts throughout the year. The other major proponent supported a limit of 50 percent during the months of August through December and 65 percent in all other months.

The individual orders now vary with regard to diversion limitations. The Minnesota-North Dakota order provides for unlimited diversions during the months of March through June, while limiting diversions in other months to 50 percent. During the flush production months of the year, several handlers have diverted to the full extent permitted under this order, resulting in diversions approaching 70 percent for the market as a whole.

The limits adopted herein, while stopping short of 100 percent, should not cause any disruptions in the operations of these handlers since they apply only to diversions to nonpool plants. Surplus milk in excess of these limits should reasonably find an outlet in some other pool plant.

The merged order should permit the operator of a distributing plant to divert milk to any other pool plant for his (the diverting handler's) account. No separate limits need apply to such diversions, since the performance standard applicable to a pool distributing plant effectively limits such diversions to an appropriate level.

The President of the Dairies Federation of Minnesota proposed allowing a distributing plant operator to divert the milk of his regular producers to other pool plants for his account. He testified that handlers wishing to retain their regular producers on their payroll for the entire month must now bring any excess milk into their plant (so that it will be a "producer receipt" there), then pump it right back into the truck, and deliver it to the other pool plant. Such milk would be treated as a transfer from one plant to another, with the transferor handler accounting to the pool for the milk and paying those producers as well.

This practice is obviously uneconomic. Moreover, as the witness pointed out, every time milk is pumped, its quality deteriorates.

The merged order should, in so far as possible, promote the most efficient handling of milk. To this end, the operator of a pool distributing plant should be permitted to divert his reserve milk supplies to another pool plant and retain the producer milk status and payroll responsibility for such milk. This will permit a distributing plant operator to avoid unnecessary and costly movements of milk merely for the purpose of retaining his status as the accountable handler for the milk. This procedure also will relieve the divertee handler of accounting for this milk as his own producer milk and being responsible in all respects for the milk.

Diversions to another pool plant should not be permitted in the case of a pool supply plant or reserve supply plant. No proposal was presented to allow diversions from such plants to other pool plants and, in the absence of convincing evidence in support of such a provision, such diversions should not be permitted.

Cooperative association spokesmen testified to the desirability of recognizing the transfer of milk through a pipeline connecting a pool plant to an adjoining or adjacent facility which is not approved for the handling of Grade A milk, in lieu of transfer in a tank truck. The cooperative witness held that recognition of pipeline transfers would promote efficient handling of milk and facilitate the use of storage capacity in the Grade A part of any such plant or complex.

It is essential to the proper operation of the order that movements of milk between plants be fully and accurately reported to the market administrator and that reported movements be readily verifiable. Thus, the flexibility to be accorded handlers with respect to the manner of movement of milk is necessarily an administrative matter that must be left to the discretion of the market administrator.

As proposed by the merger proponents, all diverted milk for pricing purposes is treated as a receipt by the diverting handler at the location of the plant to which the milk was diverted. This treatment is presently applicable under the four separate orders and must be retained. The Act specifically provides for the pricing of milk "at the location at which delivery—is made."

(b) *Classification of milk.* The uniform classification plan that became effective on August 1, 1974, for each of the orders under consideration should be continued under the merged order.

All of the proponent cooperative associations supported the continuation of the current classification plan, which was developed on the basis of very extensive hearings that had been held on this issue relative to 39 orders. For this reason, little testimony was presented at the merger hearing concerning the details of the classification provisions. There was no testimony presented in opposition to the plan.

(c) *Class I price and location adjustments—Upper Midwest Marketing Area.* The Class I price in "Zone 1" of the Upper Midwest marketing area should be the basic formula price for the second preceding month plus a Class I differential of $1.12. It should continue to be announced on the fifth day of the preceding month.

To provide an appropriate pricing structure for this market, four pricing

zones should be defined. The location adjustments for each zone (which may include territory that is not part of the "marketing area"), the resulting Class I differential, and the territory that should be included in each zone are as follows: (See Map):

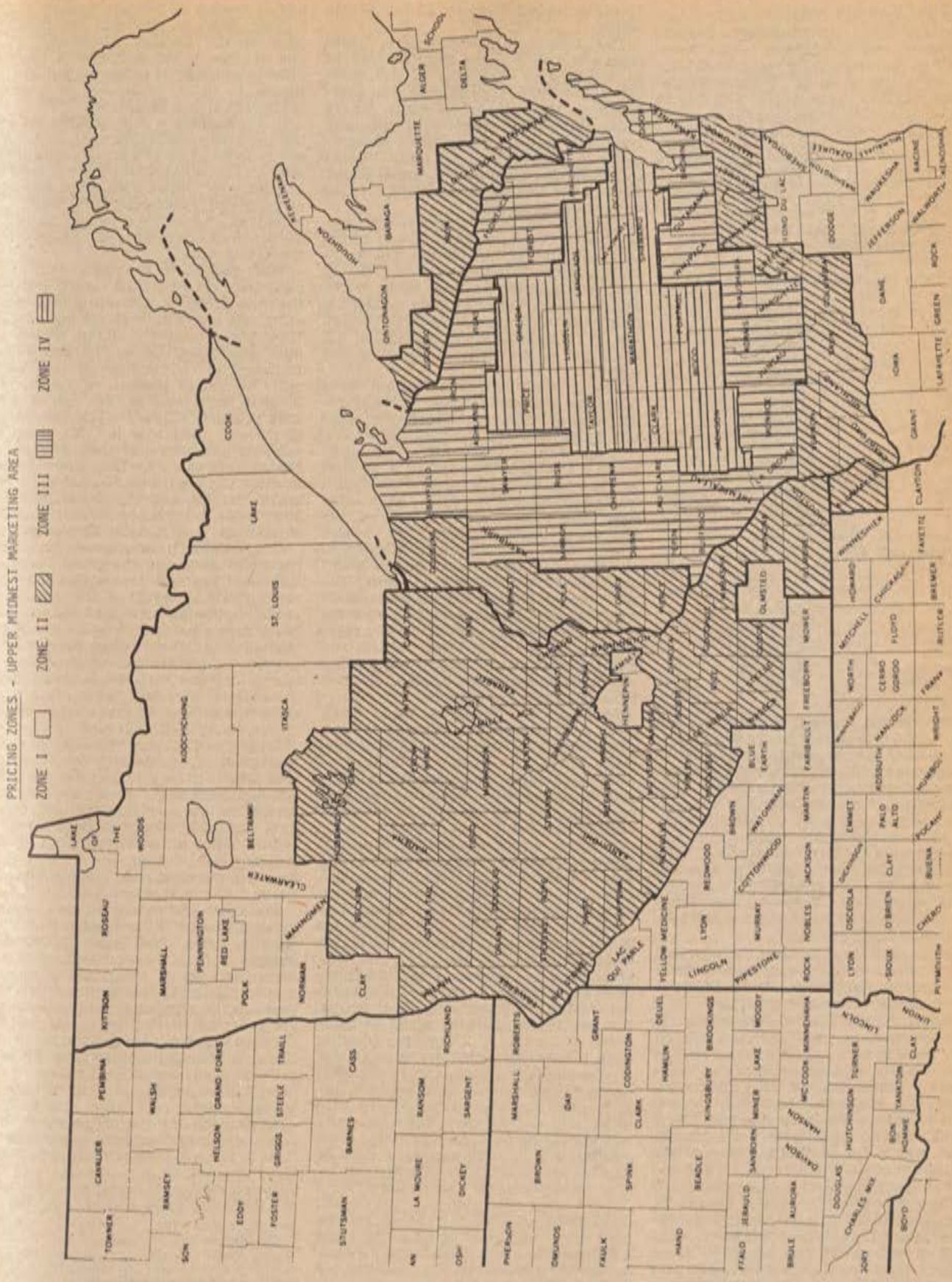
ZONE 1

Adjustment: None.
Differential: $1.12.
Territory: All of the territory, either within or outside the marketing area, not included in Zones 2, 3, and 4.

ZONE 2

Adjustments: Minus 6 cents.
Differential: $1.06.
Territory:
(1) The Minnesota counties of:

Aitkin	Mille Lacs
Anoka	Morrison
Becker	Nicollet
Benton	Otter Tail
Big Stone	Pine
Carlton	Pope
Carver	Renville
Cass	Rice
Chippewa	Scott
Chicago	Sibley
Crow Wing	Sherburne
Dakota	Stearns
Dodge	Steele
Douglas	Stevens
Fillmore	Swift
Goodhue	Todd
Grant	Traverse
Houston	Wabasha
Hubbard	Wadena
Isanti	Waseca
Kanabec	Washington
Kandiyohi	Winona
Le Seur	Wilkin and
McLeod	Wright;
Meeker	


PRICING ZONES - UPPER MIDWEST MARKETING AREA
ZONE I
ZONE II
ZONE III
ZONE IV

(2) The Wisconsin counties of:

Burnett	Manitowoc
Calumet	Pierce
Columbia	Polk
Crawford	Richland
Douglas (except the city of Superior)	St. Croix
	Sauk
	Vernon
Green Lake	Winnebago.

(3) The Michigan counties of Dickinson, Gogebic, Iron, and Menominee; and

(4) The Iowa county of Allamakee.

ZONE 3

Adjustment: Minus 10 cents.
Differential: $1.02.
Territory:

(1) The Wisconsin counties of:

Adams	La Crosse
Ashland	Kewaunee
Barron	Marinette
Bayfield	Marquette
Brown	Monroe
Buffalo	Outagamie
Chippewa	Pepin
Door	Rusk
Dunn	Sawyer
Eau Claire	Trempealeau
Florence	Washburn
Forest	Waupaca
Iron	Waushara and
Juneau	Vilas.

ZONE 4

Adjustment: Minus 16 cents.
Differential: $.96.
Territory:

(1) The Wisconsin counties of:

Clark	Oneida
Jackson	Portage
Langlade	Price
Lincoln	Shawano
Marathon	Taylor and
Menominee	Wood.
Oconto	

The revised Eastern South Dakota marketing area should have a Class I differential of $1.40. Minus location adjustments should be provided for plants located in Minnesota, North Dakota, or that portion of South Dakota north of U.S. Highway 90. Such adjustments should be based on the distance from the nearer of the Post Offices of Mitchell or Sioux Falls, South Dakota, and should be computed at the rate of 1.5 cents per 10 miles based on the shortest hard-surfaced highway distance as measured by the market administrator.

The pricing structure summarized above differs in many respects from what was proposed and from what now exists under the five separate orders.

Presently, the Class I differential under the Southeastern Minnesota-Northern Iowa order is $1.06 throughout the marketing area, and there are no location adjustments. The Class I differential under the Minneapolis-St. Paul order is also $1.06, but the price is reduced by 6 cents beyond 35 miles of St. Paul, Minnesota, and by an additional 1.5 cents per 10 miles beyond 45 miles of St. Paul.

The Duluth-Superior order now has a differential of $1.10 which applies to plants within 55 miles of Duluth, Minnesota, or Ashland, Wisconsin. Between 55 and 65 miles from the nearer of these points, the price is reduced 8 cents; and it is reduced an additional 1.3 cents per 10 miles beyond 65 miles of the basing point.

The Minnesota-North Dakota order currently has a Class I differential of $1.30 which is applicable in the "base zone." Location adjustments are computed at the rate of 1.2 cents per 10 miles from the perimeter of the base zone. The location adjustment so computed is subtracted for a plant located in the State of Minnesota and is added for a plant located in either North Dakota or South Dakota.

The Class I differential under the Eastern South Dakota order is now $1.50 for plants located within 100 miles of Aberdeen, Huron, Mitchell, Sioux Falls, or Watertown, South Dakota. Between 100 and 110 miles, the location adjustment is minus 15 cents; and beyond 110 miles, the price is reduced an additional 1.5 cents for each additional 10 miles distance.

The several pricing structures proposed by proponents differ in many respects from each other and from that now existing under the separate orders.

Land O'Lakes Cooperative, Inc., proposed a Class I differential of $1.25 that would apply in the present Southeastern Minnesota-Northern Iowa marketing area, the present "base zone" of the Minnesota-North Dakota order, and within 35 miles of Rochester, Minnesota, St. Paul, Minnesota, and Fargo, North Dakota. Outside of this territory, the price would be reduced at the rate of 1.5 cents per ten miles beyond 35 miles of Rochester, Fargo, or St. Paul, except that, in the States of North Dakota and South Dakota, the location adjustment would be added rather than subtracted from the Class I differential.

Mid-America Dairymen, Inc., originally proposed a pricing structure somewhat similar to the Land O'Lakes proposal, but with a Class I differential of $1.18. In its brief, the cooperative modified its proposal by requesting a differential of $1.25 that would apply throughout the marketing area.

A third major proponent, National Farmers Organization, proposed a five-zone Class I pricing structure with a Class I differential that ranges from $1.26 in eastern Minnesota-western Wisconsin to $1.50 in the present Eastern South Dakota marketing area. For plants located outside the proposed marketing area, there would be no location adjustment except in that portion of Wisconsin outside the marketing area. In this area, the location adjustment would be computed at the rate of 2 cents per 10 miles from the nearest point in the perimeter of the marketing area. Under the NFO proposal, there would be no location adjustments applicable to the blended price to be paid to producers delivering their milk to any plant in the marketing area.

Other pricing proposals were made by handler representatives. Three proprietary handlers under the Eastern South Dakota order requested that the Class I differential of any merged marketing area be set at a level equal to the Class I differential in Eastern South Dakota. A handler spokesman representing the Dairies Federation of Minnesota testified in support of a single uniform Class I price with no provision for location adjustments. Another Minnesota handler representative proposed a Class I differential of $1.24 with no location adjustments to be applicable in western Wisconsin and in Minnesota.

In establishing a pricing structure for the proposed marketing area, it is necessary to focus on two primary considerations: (1) What Class I price level is necessary to "insure a sufficient quantity of pure and wholesome milk"? and (2) What price structure is needed to insure Class I price alignment with neighboring marketing areas?

With regard to the first point, it is clear from reviewing the record evidence that the proposed marketing area is an extremely heavy milk-producing area. In 1974, more than 4.2 billion pounds of milk were pooled under the four orders proposed to be merged. Of this total, only 1.4 billion pounds, or roughly 33 percent, were used in the form of fluid milk products (Class I). The percentage of Class I utilization for this group of markets has been declining steadily for the past six years. In 1970, the weighted average Class I utilization for the combined markets was 41 percent; in 1971, 39 percent; in 1972, 40 percent, in 1973, 39 percent; and in 1974, 33 percent.[3]

Under these circumstances, there is no basis for increasing the Class I level in the combined and expanded marketing area. The adopted $1.12 Class I differential, in conjunction with the location adjustments prescribed, will provide essentially the identical Class I returns under the merged market as presently exists in the four separate markets. This price level can be expected to assure adequate supplies of Grade A milk for the combined marketing area.

Witnesses for Land O'Lakes, Inc., and Mid-America Dairymen, Inc., testified that a $1.25 Class I differential should be adopted because producers are now experiencing increased hauling costs. While it is true that hauling costs have increased since the present Class I differentials were adopted, this cannot be a basis for increasing the Class I differential in this combined market.

The Class I price is computed by adding the Class I differential to the basic formula price. The latter reflects the average price paid by unregulated manufacturing plants for manufacturing grade milk in Minnesota and Wisconsin. Presumably, any increased hauling costs are reflected in the price paid to producers for manufacturing grade milk in the area and, through the basic formula price, to producers under the Federal orders. In view of this, the higher farm to plant hauling cost does not support changing the returns for Grade A milk relative to manufacturing grade milk.

As previously indicated, the amount of Grade A milk in this area has been increasing relative to demand, as shown by the declining Class I utilization. Hence,

[3] Official notice is taken of *Federal Milk Order Market Statistics*, Annual Summary for 1974, Agricultural Marketing Service, U.S. Department of Agriculture.

there is no necessity for raising the Class I differential above the average level now existing in these markets.

LOCATION ADJUSTMENTS

The National Farmers' Organization proposed a Class I pricing structure which they testified would improve the Class I price relationships that now exist within the proposed merged marketing area and that would improve Class I price alignment with surrounding Federal order markets. Their proposed pricing structure would essentially retain the present Class I price level in the Minnesota-North Dakota and Eastern South Dakota marketing areas; provide new pricing zones for the unregulated territory in north central Minnesota and southwestern Minnesota; and create a new pricing zone comprising the present Southeastern Minnesota-Northern Iowa, Minneapolis-St. Paul, and Duluth-Superior marketing areas (including some unregulated territory in western Wisconsin).

One NFO witness testified that an ideal Class I price structure for the merged marketing area would be a Uniform Class I price throughout the marketing area, provided the Secretary can work it out with due regard to Class I pricing in surrounding Federal order markets. The testimony of the other cooperative proponents also suggests the desirability of a Class I price level throughout the marketing area with a minimum of variation. NFO was concerned about alignment with surrounding orders; LOL (in its brief) was concerned that a uniform Class I price would prove to be a hardship on proprietary handlers operating supply plants; and Mid-Am., while originally proposing location adjustments, in its brief modified its proposal to provide a uniform Class I price throughout the marketing area. As previously mentioned, various handler representatives also proposed uniform Class I prices and the elimination of location adjustments.

The pricing scheme recommended herein is directed toward meeting all of these conditions insofar as is possible; it provides a minimum of price differences in the market so that competing distributing plants to be regulated will have essentially the same raw product cost under the terms of the orders; it provides "location adjustments" to encourage transportation of milk, but only to the extent needed to cover transportation of milk from the closest sources of production; it complements the practice of most cooperative associations in the market of returning to their producer members a flat price regardless of their location; and it provides an appropriate price alignment with surrounding Federal order markets.

Unlike other markets where milk may be transported a substantial distance to the principal population centers, the proposed marketing area encompasses much of the heaviest milk production area of the country. Accordingly, there is abundant milk available within a short distance from the principal areas of consumption. In the Minneapolis-St. Paul area, for example, there is enough Grade A milk available in the counties bordering Hennepin (Minneapolis) and Ramsey (St. Paul) Counties to provide all the fluid milk consumed there, plus an ample reserve. Similarly, there are ample supplies of milk in the counties surrounding Rochester (Olmsted County), the Duluth-Superior area (St. Louis and Douglas Counties), and the Fargo-Moorhead-Grand Forks area.

With ample milk available within close proximity to the major population centers in the marketing area, there is no necessity to encourage the transporting of milk from more distant areas of the milkshed. The present provisions of the Minneapolis-St. Paul order, for example, provide a transportation allowance on Class I milk at the rate of 1.5 cents per ten miles from the basing points, regardless of distance from such plant. Thus, reimbursement for transportation is equally available to a supply plant 50 miles from the Twin Cities or 150 miles away. With this arrangement, a Minneapolis handler purchasing Class I milk from a supply plant is indifferent whether the milk comes from a nearby plant or a distant plant, since the additional transportation cost attributable to the difference in plan locations is reflected in the minimum order prices.

The pricing structure here adopted establishes zones which provide a limited transportation allowance for milk movement. Zone 1* ($1.12 differential) contains the major population centers in Minnesota and North Dakota and almost all of the distributing plants supplying such area. The $1.06 zone (Zone 2), by contrast, is rural in character and contains most of the heavy milk producing area and most of the manufacturing plants.

Since there is not enough milk produced within Zone 1 to satisfy all of the fluid demand on a day-to-day basis through the year, it is necessary to provide a price differential to implement the movement of a supplemental supplies from Zone 2. To this end, Zone 2 is priced 6 cents below Zone 1. At a hauling rate of 1.5 cents per 10 miles, 6 cents will accommodate the transportation of milk from within 40 miles of a plant in the $1.12 zone. Under existing circumstances, there is no need to accommodate the movement of milk from beyond this distance to insure all of the Grade A milk necessary to meet fluid demand of plants in Zone 1.

Bordering the proposed marketing area on its eastern border is the Chicago Regional marketing area. The Chicago Class I price zoned to this area results in a price 90–96 cents over the basic formula price at various points bordering the proposed marketing area. To provide alignment, therefore, it is necessary to have a comparable price in this segment of the market under the proposed order. Accordingly, Zone 4, which comprises four now unregulated Wisconsin counties (three of which are to be included in the Upper Midwest marketing area) and eight Wisconsin counties that are part of the Chicago Regional marketing area, requires a Class I differential of 96 cents.

Between Zone 2 ($1.06) and Zone 4 ($.96), an intermediate zone is required to provide a graduated price adjustment and thus to avoid abrupt and substantial price changes which could encourage unstable marketing conditions. For this purpose, a location adjustment of minus 10 cents (which would yield a Class I differential of $1.02) is appropriate. The presently unregulated portion of this part of the extended marketing area contains several partially regulated and unregulated distributing plants with sales throughout a broad segment of the area. Two of the largest of these plants are located in Barron and Eau Claire Counties. The distribution areas of these two plants virtually overlap, making it desirable to include both of these plants in the same zone.

The Minnesota-Wisconsin area represents an alternative supply area for virtually all markets east of the Rockies. For this reason, it is imperative that Federal order Class I prices be appropriately aligned so that the milk will move only when necessary. A Class I differential for the proposed marketing area that is too low would cause local milk to seek more remunerative distant outlets.

The $1.12 differential here adopted will align prices with those Federal orders also drawing milk supplies from central and southern Minnesota. The Des Moines order has a Class I differential of $1.09 at Rochester, Minnesota, and at Mankato, Minnesota. The Nebraska-Western Iowa Class I differential, based on mileage from Omaha, is also $1.09 at Rochester and $1.16 at Mankato. The Kansas City order Class I differential is $1.12 at Rochester and $1.13 at Mankato. A $1.12 differential for the extended market will improve price alignment with the North Central Iowa marketing area which now has a Class I differential of $1.25 in the counties adjacent to the southern boundary of the proposed marketing area.

Under current provisions of the Minnesota-North Dakota order, plus location adjustments apply in that part of North Dakota that is outside the base zone (as now defined in that order). Present circumstances do not warrant maintaining the existing plus location adjustments in the North Dakota segment of the marketing area. From December 1967 to November 1973 the amount of Order 60 milk pooled in North Dakota in the base zone declined by 19 percent, while that milk in the plus location adjustment area increased by 71 percent. Moreover, from December 1967 to November 1973, the number of supply plants in the plus location adjustment zone went from zero to six. As a result, milk received at plants in the plus location adjustment area increased by 674 percent in this period.

*All of the zones proposed herein extend into neighboring marketing areas, overlapping comparable pricing zones under other Federal orders. Unless otherwise specified, however, the discussion of pricing zones refers only to the territory within the proposed "Upper Midwest" marketing area.

The effect of these plus location adjustments is to raise the uniform price to producers outside the base zone relative to those delivering their milk to plants inside the base zone. Consequently, there is a disincentive to deliver milk to the base zone directly from the farm when a higher price is available by delivering it to one of the supply plants outside the base zone. This practice is contrary to orderly and efficient marketing of milk.

To protect the integrity of regulation under Federal orders, it is generally necessary, either through the allocation procedure in the assignment of milk receipts to classes of use or in the application of location adjustment credits, to protect the pool from bearing the costs of moving milk to the central market for other than Class I use. This is usually accomplished by providing that Class I use in each plant is assigned first to direct receipts and then in sequence to receipts from other plants, starting with those plants nearest the market.

With the continuing conversion of manufacturing grade milk to Grade A in this upper midwest area, distributing plants can be expected to have ready access to their required milk supplies on a direct-shipped basis. Furthermore, in view of the liberal pooling standards adopted (which will remove any necessity for the movement of milk between plants solely to attain pooling status) and the limited location adjustments provided (6 cents for most plants, with the maximum being 16 cents), it may be presumed that, when milk is transferred to pool distributing plants, such transfers reflect a need for milk that cannot otherwise be met. In view of this, the interests of both handlers and producers will best be served by allowing the transferee handler flexibility in designating the milk to be assigned to Class I. This will insure that the difference in location value between transferor and transferee plant will be available to the transferor handler as an offset to the cost of moving any milk supplies.

EASTERN SOUTH DAKOTA MARKETING AREA

The Eastern South Dakota order now has a Class I differential of $1.50 applicable at each of its four fully regulated distributing plants. This price is clearly out of alignment with prices which have been effective in other parts of the area here being merged and also with prices in markets to the south. In substantial measure, it has been perpetuated by the particular institutional structure of the market. The record strongly suggests that producers in the Eastern South Dakota market have not, in fact, received returns reflecting the use value of their milk at the prescribed order prices, and that the higher returns from this market have been used to enhance returns of dairy farmers in Minnesota and North Dakota.

A South Dakota distributing plant operator representing himself and two other South Dakota handlers testified that the present 44-cent difference between Minneapolis-St. Paul ($1.06 differential), Southeastern Minnesota-Northern Iowa ($1.06 differential) and Eastern South Dakota ($1.50) has caused havoc in Eastern South Dakota, resulting in the demise of many small distributing plants over the years and the passage of a Minimum Retail Milk Price law to stem the inflow of cheaper Minnesota milk. These handlers proposed providing the same Class I differential for any merged order as would apply under the Eastern South Dakota order, but preferably increasing the Minnesota differentials to the $1.50 level.

The average annual Class I utilization in the Eastern South Dakota market has declined from 67 percent in 1969 to 46 percent in 1974. With the percentage of total milk production approved for Grade A averaging around 35 percent in this market, there is a growing potential for substantially increased Grade A supplies here. Because of its location with respect to markets to the south, i.e., Nebraska-Western Iowa and Kansas City, for example, the price must be established higher than that in the Upper Midwest market. But in the interest of producer and handler equities and overall price alignment, the price must be reduced from the existing level.

To provide continuing orderly marketing among the neighboring Federal order markets in the general area, Class I differentials must be structured to reflect costs in transporting milk between surplus markets and deficit markets. The Eastern South Dakota market is sandwiched between the Upper Midwest market on the north and east, and the Nebraska-Western Iowa market to the south. With a Class I differential is $1.12 on its northern border and a Class I differential of $1.60 on its southern border, the Eastern South Dakota market clearly must have a transitional pricing structure to provide for the orderly movement of milk.

For this reason, the Eastern South Dakota market, as modified herein, should have a Class I differential of $1.40 applicable at Mitchell, Sioux Falls, and all other points south of U.S. Highway 90. For plants located in Minnesota, North Dakota, or that portion of South Dakota north of U.S. Highway 90, the Class I price should be adjusted downward at the rate of 1.5 cents per 10 miles from the nearer of Sioux Falls or Mitchell. This will provide for a smooth transition of pricing between the Upper Midwest and Eastern South Dakota markets. It will considerably improve current interorder price alignment, while continuing to assure an adequate supply of milk for South Dakota handlers.

In conjunction with the above change in pricing structure for the Eastern South Dakota market, a change should be made in the pricing point of producer milk diverted from a pool plant to a nonpool plant.

Presently, such milk is priced at the plant from which diverted. With virtually a flat price throughout the marketing area (presently there are no location adjustments within 100 miles of Aberdeen, Huron, Mitchell, Sioux Falls, and Watertown) it has mattered little if diverted milk were priced at the plant from which diverted or at the plant to which diverted. However, with the pricing structure adopted herein, the pricing point on diverted milk will be an important factor in the movement of milk supplies.

When diverted milk is priced at the plant from which diverted, there is always the incentive for association of distant milk with plants in the higher priced zones even though such milk is not needed at such plants for fluid use. This unecessary movement of milk results in inefficient marketing practices. It also reduces the return to producers whose milk is used on a regular basis at pool distributing plants in favor of more distant producers whose milk is used principally for manufacturing uses. The latter milk, although only occasionally transported to the central market, is priced as though it were received there every day.

The Act specifically provides for the pricing of milk "at the location at which delivery * * * is made." Thus, the change in pricing point will also insure compliance with the current interpretation of the Act.

Pricing milk not needed for Class I use. The Class II price under the merged order should be the basic formula price for the month plus 10 cents. The Class III price should be the basic formula price for the month. These prices should be announced by the 5th day after the month to which they apply.

These prices were proposed by all of the proponent organizations and are now applicable under each of the orders to be merged. They were adopted for all of these orders in conjunction with the 39-market classification proceedings referred to earlier in this decision and are appropriate for the identical reason for which they were adopted in the separate orders.

Butterfat differential. A single butterfat differential should apply under the merged order. It should be computed by multiplying the average Chicago 92-score butter price for the month by 0.115 and rounding such amount to the nearest 0.1 cent. The differential should be announced by the market administrator by the 5th day after the end of the month in which it applies. This differential is now applicable under the separate orders and was adopted in conjunction with the uniform classification plan now in use.

Land O'Lakes proposed that the butterfat differential be reduced to 10.5 percent of the Chicago 92-score buttter price.

Mid-America Dairymen, Inc., which originally supported a butterfat differential of .115 (the one now in the individual orders), changed its position taken at the hearing and, in its post hearing brief, supported the position of Land O'Lakes. Several proprietary handlers also expressed support of the idea. A proprietary handler and one producer cooperative association filed briefs in opposition to the proposal.

A Land O'Lakes spokesman testified that the current butterfat differential

prices surplus (Class III) cream $2.17 per hundredweight above its market value when manufactured into butter. Thus, he said, a fluid milk handler buying whole milk is at a disadvantage compared to one who buys skim milk since the former must absorb a loss on the cream portion of his milk.

It is unlikely that a fluid milk handler buying skim milk actually realizes this advantage. If there is a loss to be absorbed on surplus cream, it is likely that such loss is reflected in the price the handler must pay a cooperative association to obtain skim milk.

Any modification in the level of the butterfat differential would have wide-ranging repercussions since the market for butter, nonfat dry milk, and cheese is national in scope. Handlers in surrounding markets would be adversely affected by such a change in the pricing in this market. Moreover, as was pointed out in one brief, handlers manufacturing products that require milk testing below 3.5 percent would be faced with a cost increase that would put them at a competitive disadvantage compared to handlers in other markets.

The matter of appropriate butterfat differential was an issue dealt with fully in the 39-market proceedings. This record does not furnish a basis for modification of the provision so recently adopted for the several orders involved. Accordingly, the proposal is denied.

(d) *Distribution of proceeds to producers.* A marketwide pool should be provided under the merged order as a means of equitably distributing among all producers in the market the total proceeds derived from the sale of producer milk by all regulated handlers. Under marketwide pooling, one uniform price, adjusted for location of the plant to which the milk was delivered, is paid to all producers regardless of how a particular producer's milk is used by the handler to whom it is delivered. By receiving payment at the market uniform price, each producer shares equally in the higher-valued Class I milk of the market as well as in the lower-valued Class II and Class III uses of milk. This type of pooling is now being used in all four of the individual markets to be merged and was supported by all parties of interest for use under the merged order.

COMPUTATION AND ANNOUNCEMENT OF UNIFORM PRICE

A uniform price to producers based on estimated pool values should be computed each month by the market administrator and announced by the 11th day after the end of the month.

Presently, three of the individual orders provide for announcement of the previous month's uniform price by the 12th day of the month. The Minneapolis-St. Paul order provides for such announcement of the uniform price by the 15th day of the month.

Land O'Lakes, Inc., proposed a procedure whereby the market administrator would estimate a uniform price, which he would then announce by the 5th day after the month. A Land O'Lakes spokesman testified that announcement of the uniform price by the 5th day of the month would be a convenience to his organization in establishing producer pay prices. He stated that presently Land O'Lakes sets producer pay prices before the 15th day of the month, but this requires estimating gross returns in the various markets involved. The market administrator, he said, is in a much better position to estimate these returns since he has more information available to him.

The market administrator for the Minneapolis-St. Paul and Minnesota-North Dakota orders testified that his office has estimated the uniform price on an informal basis since June 1973. During the period from June 1973–October 1974 (no estimate was made for February 1974) these estimates were precisely correct during four months, one cent above or below the actual price during seven months, 2–3 cents off during four months, and off by 6 cents during one month when Key personnel were out of the office. On the average, the estimates differed from the actual price during this period by one half cent. They have been available to any interested person between the 5th and 12th day of the month.

The proposal to compute an estimated uniform price should be adopted. However, instead of being announced on the 5th day of the month, it should be announced on the 11th day of the month, one day after handler reports are due.

Several advantages will result in providing for computation of a uniform price on an estimated basis. Presently, the market administrator cannot compute a uniform price until the handlers' reports of receipts and utilization have been submitted. Often, depending on the fall of weekends and holidays, this does not allow enough regular working days to process the reports and announce a price by the 15th day of the month. As a result, overtime is regularly required in order to meet the deadline.

By allowing the market administrator to estimate the total amount and value of milk in the pool he has from the 5th day of the month, when the basic formula price for the preceding month is announced, until the 11th of the month to make his calculations and compute the uniform price. In addition, removing the uniform price computation from the processing of handlers' reports will allow the latter job to be done much more efficiently since the reports will no longer have to be processed by stages but, instead, may be processed in their entirety as they are received.

A final advantage to announcing the uniform price on the 11th day of the month is that it will permit earlier payments into and out of the producer-settlement fund and earlier payments to producers for their milk.

Payments to producers. The merged order should continue to require handlers to make payments to cooperative associations and producers for milk received. This is now the method of payment under each of the four orders.

Land O'Lakes Cooperative, Inc., proposed a payment plan whereby all handlers receiving milk from a cooperative association would pay their total pool obligation for such milk to the market administrator who, in turn, would pay the cooperative associations. Under their plan, proprietary handlers would pay their independent producers, however.

Proponent's witness testified that requiring handlers to pay the market administrator for milk received from cooperative associations would assure that all handler obligations and producer payments would be made on time and that such payments would be uniform. He further stated that, because cooperative associations continually fear a loss of their position in the market and, therefore, their ability to pool member milk, there is a tendency for cooperatives to be lenient with their Class I customers in the matter of making timely payments. This, he said, results in the slow-paying milk distributor realizing a cost advantage over competitors who make timely payments for their milk receipts. He related one experience in the spring of 1974 in which a handler fell further and further behind in his payments, ultimately falling into bankruptcy and leaving the cooperative with a large and uncollectable account receivable.

With the liberal pooling standards provided under the merged order, the circumstances leading to such large and uncollectible accounts should be avoided. It is expected that payments to producers will be made promptly, since access to Class I outlets will not be necessary to pool and a cooperative association may reasonably withhold supply to any handler who fails to pay promptly. If the problem leading to this proposal is resolved, there will be no need for channeling payments through the market administrator as proposed.

Under the terms adopted herein for the merged order, milk received from a cooperative acting as a handler for farm bulk tank milk will be treated as an interhandler transfer but will be classified pro rata with producer milk at the transferee plant. The pool plant operator will be obligated to the producer-settlement fund for the milk received directly from producers and by transfer from bulk tank cooperative handlers at its classified use value. This is in contrast to the procedure now followed, whereby the cooperative is responsible to the pool at class prices for milk delivered to a pool plant. In its capacity as the operator of a pool plant, a cooperative association will continue to account to the pool at class prices for milk transferred to other pool plants. The transferee handler will pay the cooperative the class prices for such milk.

The order should require a proprietary handler to make a partial payment to a cooperative association on or before the 3rd day after the end of the month for milk received during the first 15 days of the month from producers who are members of such cooperative association and who have authorized the association to

collect such payment for them. For purposes of the partial payment, no distinction should be made between milk coming directly from the farm or by transfer from a pool plant operated by a cooperative. The rate of partial payment should be no less than the uniform price for the preceding month. A proprietary handler should also be required to make a partial payment to nonmember producers for milk received during the first 15 days of the month. Such payment should also be made on or before the 3rd day after the end of the month and should be at the rate of the uniform price for the preceding month.

The provisions proposed by the National Farmers' Organization and Mid-America Dairymen, Inc., would have required that the partial payment be at the Class I price for the current month rather than the uniform price for the preceding month. If partial payment were made at the Class I price, it would leave a disproportionately smaller share available to producers at the end of the month. Moreover, since no handler in this market has 100 percent Class I utilization, partial payment at the Class I price in most cases would be in excess of the value of milk received. For this reason, partial payment should be at the uniform price for the preceding month.

Final accounting for milk from producers and cooperative bulk tank handlers will be completed after the end of the month. Handlers will be required to submit to the market administrator a report of all receipts and utilization by the 10th day after the end of the month. The uniform price is announced by the 11th day. On the 11th day, handlers are required to pay cooperative associations for all skim milk and butterfat received from pool plants operated by such cooperative associations at not less than the class prices, as adjusted by the butterfat differential, applicable at the location of the receiving handler's pool plant (except that if such pool plant is in a lower priced zone than the cooperative association's plant, the Class I price will be at the location of the transferor plant), less the amount of the partial payment.

Handlers whose pool obligation exceeds the value of their producer milk at the uniform price should be required to make payment to the producer-settlement fund on or before the 15th day after the end of the month. On or before the 17th day after the end of the month, the market administrator will make payments to handlers whose total pool obligation is less than the value of their producer receipts at the uniform price.

Final payment by proprietary handlers to cooperative association handlers on farm bulk tank milk will be made on or before the 18th day after the end of the month. Such payment will be at not less than the uniform price for the month, less the amount of partial payment made for milk received during the first 15 days of the month. On or before the 18th day after the end of the month, handlers will also make final payment to each producer for milk which was not caused to be delivered by a cooperative association acting as a handler on farm bulk tank milk. Such payment will also be at the uniform price for the month, less the amount of partial payment for milk received during the first 15 days of the month.

This schedule of reporting and payment dates adopted is intended to insure producers prompt payment for their milk. The payment dates being adopted are somewhat earlier than those proposed by Mid-America Dairymen, Inc., and the National Farmers Organization, but are later than those proposed by Land O'Lakes. They recognize that reasonable time is required for handlers to file reports and make payments to the market administrator by mail. This is particularly significant in view of the large and rural geographical area encompassed by the merged order.

The president of the Dairies Federation of Minnesota proposed that the payment date be pushed back from the 20th to the 25th of the month. He stated that the billing date for retail customers was on the 15th of the month and that payments from such customers are not received until the 25th day of the month. Consequently, he said, handlers are faced with additional costs in the form of interest on bank loans if they are required to pay producers before they receive payment from their retail customers.

There is no foundation for this position. As it is, producers must wait until the 18th day after the end of the month before receiving the final payment for their milk. The cost of any short term loans that a handler may need to meet order obligations must be considered a necessary business expense to be borne by the handler. There is no reason why producers should be required to bear any of the handler's business expenses. Accordingly, the proposal should not be adopted.

SERVICE CHARGES

Land O'Lakes Cooperative, Inc., proposed that service charges be incorporated in the order to accommodate recovery of a cooperative association's costs for field service, quality testing, coordination of milk movements, disposition of reserve supplies, producer payrolls, and operation and maintenance of storage and handling facilities. The proposal would provide a charge of 10 cents per hundredweight on milk delivered directly from the farm to a handler's plant and 18 cents per hundredweight on milk delivered from a supply plant to a handler's plant.

A Land O'Lakes witness testified that most cooperative associations supplying proprietary handlers are able to recoup the cost for various services rendered through service charges levied by the cooperative. However, not all cooperatives in the upper Midwest levy such a charge and the charges that are made vary from organization to organization and possibly from customer to customer. Often, this witness stated, the urgency to pool member milk may cause a cooperative to reduce or eliminate the charge in order to retain a Class I customer. Consequently, a milk distributor who pays a small charge or none at all has a procurement cost advantage over a competitor buying milk from a cooperative that does charge for services rendered. The witness concluded that this situation is not in keeping with the legislative requirement of the Agricultural Marketing Agreement Act that "prices shall be uniform to all handlers."

Proponent emphasized that the pressure to retain Class I customers and to keep member producer milk pooled made it difficult to recoup the cost for various services rendered. Under the proposed pooling standards, these pressures will be virtually eliminated. It will not be necessary to absorb bona fide service costs in order to keep milk pooled.

Accordingly, the Land O'Lakes proposal should not be adopted at this time.

(e) *Administrative provisions.—Interest payments on overdue accounts.* The merged order should provide for interest payments on handler obligations that are overdue. Such interest should be at the rate of three-fourths of one percent per month (9 percent annually). Interest should apply beginning the day following the date on which payment of an obligation is due.

It is essential that all handler payments to the producer-settlement fund be made promptly in order that the market administrator will be able to make the required payments to producers. An interest charge on overdue accounts should provide an incentive to handlers to make their payments on time. Moreover, handlers who pay late are, in effect, borrowing money from producers. Without interest payments, handlers delinquent in their payments would have a financial advantage relative to those handlers making timely payments.

It should be noted that interest payments are not a substitute for prompt payments by handlers. Those delinquent in their obligations will be subject to legal enforcement action as authorized under the Act.

The adopted interest rate (three-fourths of one percent per month) was proposed by all three merger proponents. This rate is currently applicable under the Southeastern Minnesota-Northern Iowa and Minneapolis-St. Paul orders. One proprietary handler suggested a penalty equal to the prime rate in effect, plus one percent, on all payments 15 days or more past due. This proposal, while somewhat more flexible than the provision adopted herein, does not differ substantially from it at present interest rates. Since no particular problem was presented regarding the present provision, there is no reason to depart from the present order language proposed by the merger proponents.

Administrative assessment. The maximum rate of payment by handlers for the cost of administering the merged order should be 3 cents per hundredweight. The market administrator must have adequate funds to perform the necessary function of administering the merged order.

Currently, the maximum rates under the separate orders are 4 cents per hundredweight under the Minnesota-North Dakota, Southeastern Minnesota-Northern Iowa, and Duluth-Superior orders, and 3 cents per hundredweight under the Minneapolis-St. Paul order.

A maximum 3-cent rates under the expanded order should cover all necessary expenses the market administrator may occur in administration of the order. It is necessary, of course, that the administrator have adequate funds to perform all of those functions necessary for effective administration. However, if experience indicates that the merged order can be administered at a lesser rate, the Secretary, under the terms of the order, may adjust the effective rate of assessment without the necessity of a hearing.

The administrative assessment should apply to all receipts within the month of milk from producers, including milk of such handler's own production, any other source milk allocated to Class I (except milk so assessed under another Federal order), milk received from a cooperative association in its capacity as a handler on farm bulk tank milk, and milk transferred in bulk to a pool plant from a plant owned and operated by a cooperative association. A cooperative association should pay the administrative assessment only on its receipts for which the assessment is applicable, and for which such assessment is not to be paid by other handlers.

Presently, of the four orders, only the Southeastern Minnesota-Northern Iowa order places on proprietary handlers the administrative assessment on milk received from a cooperative association in its capacity as a handler on farm bulk tank milk or as a handler or plant milk transferred. Land O'Lakes, Inc., proposed this procedure for the merged order.

The Act provides that the administrative cost of the order shall be borne by handlers. In this connection, it is apparent that Congress contemplated that, in any circumstance in which a proprietary handler purchased milk from a cooperative association, the assessment would be passed on to the proprietary handler. Otherwise, proprietary handlers would simply avoid the burden of administrative cost by purchasing milk only from cooperative associations, leaving producers to bear such cost. This practice would violate the mandate of the Act requiring minimum uniform prices to all handlers. Therefore, the new order should be clear on who is responsible for the administrative assessment on this milk.

When a cooperative association operates a processing plant or acts in the capacity of a handler diverting milk to nonpool plants or in the limited capacity as responsible handler with respect to farm bulk tank milk which it causes to be picked up at the farm and which is not received at any plant, it, of course, must be held responsible for the assessment payable on such milk.

Marketing service deduction. With respect to payments to producers, the order should provide for a maximum deduction of 5 cents per hundredweight for marketing services furnished by the market administrator. Such deductions are necessary to enable the market administrator to conduct an adequate marketing service program for producers supplying the market.

The maximum rates now for such services are 6 cents under the Southeastern Minnesota-Northern Iowa and Minneapolis-St. Paul orders, 5 cents under the Minnesota-North Dakota order, and 3 cents under the Duluth-Superior order.

The 5-cent rate, which is one cent below the rate proposed at the hearing, should permit the market administrator to conduct an adequate marketing service program for those producers not receiving such services (providing for market information to producers and verification of weights, sampling, and testing of milk purchased from producers) from a cooperative association. Experience indicates that these services can be performed at a rate considerably below the maximum now provided in the order. Therefore, a maximum rate of 5 cents should continue to provide adequate funds for these services.

The order should provide for the transfer of funds from a proprietary handler to a cooperative association when the latter is performing the marketing services for producers. The language suggested by proponents, which is the language now contained in the Minneapolis-St. Paul order, would merely direct that no money be withheld in the case of producers for whom a cooperative is performing the marketing services. This would be adequate when the handler pays the cooperative association for the milk and the cooperative then pays the producers. In this case, the cooperative could obviously withhold the market service fee. But in the case where the handler pays the producer directly, a provision is needed to provide for the transfer of funds from the handler to the cooperative to cover the marketing services performed. The language adopted herein, which is similar to language contained in the Minnesota-North Dakota and Southeastern Minnesota-Northern Iowa orders, specifically provides for this transfer of funds, accompanied by a statement showing the quantity of milk for which a deduction was computed for each producer.

Merger of the administrative expense, marketing service, and producer-settlement funds. To accomplish the merger of the orders effectively and equitably, the reserves in the administrative expense funds that have resulted under Orders No. 60, 61, 68, and 69 should be combined. Similar procedure should be followed with respect to the marketing service fund reserves of these individual orders. Any liabilities of such funds under the individual orders should be paid from the appropriate new fund established under the merged order. Similarly, obligations that are due the several funds under the individual orders should be paid to the appropriate combined fund under the merged order.

The money paid to the administrative expense fund is each handler's proportionate share of the cost of administering the order. It is anticipated that all handlers currently regulated under the individual orders will continue to be regulated under the merged order. In view of this, it would be an unnecessary administrative and financial burden to allocate back to handlers the reserve funds under the individual orders and then accumulate an adequate reserve for the merged order. It is equally equitable and more efficient to combine the administrative monies accumulated under the individual orders and to pay any liabilities against such funds from the consolidated fund of the merged order. With respect to the Eastern South Dakota administrative service fund, it should be retained under that order even though part of that marketing area is included in the merged area, since the reserve in that fund is for the purpose of performing audits of handlers reports and other administrative tasks with respect to handlers regulated under that order.

The money accumulated in the marketing service funds of Orders No. 60, 61, 68, and 69 is that which has been paid by producers for whom the market administrator is performing services. The Eastern South Dakota order has no marketing services provision. The producers who have contributed to the marketing service fund of each order are expected to continue to supply milk for the Upper Midwest market. The consolidation of the reserves in the individual marketing service funds is therefore appropriate in view of the continuation of the marketing service program for these producers under the merged order.

The producer-settlement fund balances in Orders No. 60, 61, 68, 69, and the proportion of the unobligated producer settlement fund reserve of Order No. 76 associated with and attributable to the milk of producers in the month preceding the first month in which such producer milk becomes regulated under the merged order should be combined so that the producer-settlement funds under the merged order and Order No. 76 may be continued without interruption. The producers currently supplying handlers in the individual markets are expected to continue to supply milk to such handlers. The merged Upper Midwest market, which incorporates part of the present Eastern South Dakota market, is expected to result in the shift of regulation of an Aberdeen, South Dakota, plant from that market to the Upper Midwest market. Thus, monies now in the producer settlement funds of the individual orders would be reflected in the uniform prices of the producers who will benefit from the merged order. The combined fund would also serve as a contingency fund from which money would be available to meet obligations (resulting from audit adjustments and otherwise) accruing under one or the other of the separate funds.

PROVISIONS REQUIRING NO REVISION

Handlers and producers indicated that provisions of the Minneapolis-St. Paul and Eastern South Dakota orders for which they were proposing no changes were appropriate for the expanded marketing areas.

No testimony was presented indicating that the reasons set forth in the decisions providing for the adoption of such provisions were not equally applicable to regulation of the expanded marketing areas. For the reasons previously stated, the remaining unrevised provisions of the orders are appropriate for the extended orders and are hereby adopted.

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

Briefs and proposed findings and conclusion 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 orders 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 agreements and the orders, 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 areas, and the minimum prices specified in the tentative marketing agreements and the orders, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(c) The tentative marketing agreements and the orders, 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, the marketing agreements upon which a hearing has been held;

(d) All milk and milk products handled by handlers, as defined in the tentative marketing agreements and the orders as hereby proposed to be amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(e) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 3 cents per hundredweight (5 cents under the Eastern South Dakota order) or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1068.85 of the aforesaid tentative marketing agreement and the Upper Midwest order. (§ 1076.85 under the Eastern South Dakota order)

RECOMMENDED MARKETING AGREEMENTS AND ORDER AMENDING THE ORDERS

The recommended marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the orders. The following order amending the orders, as amended, regulating the handling of milk in the Upper Midwest and Eastern South Dakota marketing areas is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

PART 1068—MILK IN THE UPPER MIDWEST MARKETING AREA

Subpart—Order Regulating Handling

GENERAL PROVISIONS

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

Subpart—Order Regulating Handling

GENERAL PROVISIONS

§ 1068.1 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

§ 1068.2 Upper Midwest marketing area.

"Upper Midwest marketing area" (referred to in this part as the "marketing area") means all territory within the boundaries listed below including all territory that is now, or in the future, occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part of such territory is within the designated geographical limits of the marketing area:

(a) The State of Minnesota, except the counties of Lincoln, Nobles, Pipestone, and Rock.

(b) In the State of Wisconsin, the counties of:

Ashland	Pepin
Barron	Pierce
Bayfield	Polk
Buffalo	Price
Burnett	Rusk
Chippewa	Sawyer
Clark	St. Croix
Douglas	Taylor
Dunn	Trempealeau
Eau Claire	Washburn

(c) In the State of North Dakota, the counties of:

Barness	Pembina
Cass	Ramsey
Cavalier	Ransom
Dickey	Richland
Grand Forks	Sargent
Griggs	Steele
La Moure	Traill
Nelson	Walsh

(d) In the State of South Dakota, the counties of:

Brown	Marshall
Day	McPherson
Edmunds	Roberts
Grant	Walworth

(e) In the State of Iowa, the counties of:

Howard	Winnebago
Kossuth	Winneshiek
Mitchell (except the city of Osage)	Worth

§ 1068.3 Route disposition.

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

§ 1068.4 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, or packaged. Separate facilities used only as a distribution point for storing packaged fluid milk products in transit for route disposition or 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.

§ 1068.5 [Reserved]

§ 1068.6 [Reserved]

§ 1068.7 Pool plant.

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

(a) From which during the month:

(1) The total route disposition (except filled milk) as a percent of the total milk received in bulk form at such plant (excluding milk received as diverted milk from another pool plant) or diverted therefrom by the plant operator is at least equal to the marketwide Class I utilization percentage for the same month of the preceding year. (Upon the effective date of this order, the market administrator shall compute and announce the weighted average Class I utilization percentage for the four markets combined herein. Such computation shall be used in determining pooling standards pursuant to paragraph (a) and (b) of this section during the first year this order is effective.); and

(2) Not less than 15 percent of such receipts are disposed of as route disposition (except filled milk) in the marketing area; or

(b) That is approved by a duly constituted regulatory agency for the handling of Grade A milk, from which during the month the volume of fluid milk products shipped to pool plants qualified pursuant to paragraph (a) of this section as a percent of the total Grade A milk received at the plant from dairy farmers during the month (including milk delivered to the plant from dairy farms for the account of a cooperative association and milk diverted from the plant by the plant operator but excluding milk diverted to the plant from another pool plant) is not less than the marketwide Class I utilization percentage for the same month of the preceding year;

(c) That qualified as a pool plant in each of the immediately preceding three months on the basis of performance standards described in paragraph (a) or (b) of this section; or

(d) That is located in the marketing area and that is approved by a duly constituted regulatory agency for the handling of Grade A milk, subject to the following conditions:

(1) At least one tank truck load of milk (not less than 45,000 pounds) has been shipped from the plant to a pool plant described in paragraph (a) of this section or to a comparable plant under another Federal order within the last 12 months, unless the plant is already qualified as a pool plant pursuant to this paragraph;

(2) The operator of the plant has filed a request with the market administrator for pool status at least 15 days prior to the first day of the month in which such status is desired effective. Once qualified as a pool plant pursuant to this paragraph, such status shall continue to be effective unless the operator requests nonpool status for the plant prior to the first day of the month for which nonpol status is requested, the plant subsequently fails to meet all of the conditions of this paragraph, or the plant qualifies as a pool plant under another order;

(3) The operator of the plant has agreed to supply a percentage of its milk (not to exceed the percentage of shipments required of a plant described in paragraph (b) of this section) to pool plants described in paragraph (a) of this section or to comparable plants under another Federal order in compliance with any announcement by the market administrator requesting such level of shipments. The market administrator may require such shipments from any designated plants qualified pursuant to this paragraph whenever he finds, after investigating on his own initiative or at the request of interested persons, that milk supplies for Class I use are needed from pool plants qualified under this paragraph. Failure to comply with any announced shipping requirement shall result in immediate loss of pool status for the plant pursuant to this paragraph. A plant losing pool status in this manner may not again qualify as a pool plant pursuant to this paragraph for a period of one year from the date on which pool status was lost; and

(4) Effective January 1, 1977, a plant must have been a pool plant under this order during each of the preceding months of September through December to be a pool plant under this paragraph during the following months of January through June.

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

(1) A producer-handler plant;

(2) A governmental agency plant;

(3) A plant qualified as a pool plant pursuant to paragraphs (a), (b), or (c) of this section if the conditions of paragraph (e)(3) (i) and (ii) of this section are met. Such plant shall be exempt from the provisions of this part except for reports that may be required pursuant to § 1068.30(d) and verification of such reports by the market administrator in accordance with § 1000.5 of this chapter:

(i) The Secretary determines that a greater quantity of milk in fluid form is disposed of from such plant to a regulated marketing area as defined in another order issued pursuant to the Act either as route disposition, excluding filled milk, or to other order plants qualified on the basis of route disposition, than is disposed of from such plant in the Upper Midwest marketing area either as route disposition, excluding filled milk, or to pool plants qualified on the basis of route disposition; and

(ii) Such milk would be subject to the class price and producer payment provisions of the other marketing agreement or order upon being made exempt from this part; and

(4) That portion of a plant that is physically separated from the Grade A portion of such plant, is operated separately, and is not approved by any regulatory agency for the receiving, processing, or packaging of any fluid milk product for Grade A disposition.

§ 1068.8 Nonpool plant.

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

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in the marketing area during the month.

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

(e) "Governmental agency plant" means a plant owned and operated by a government institution which disposes of Class I milk in the marketing area solely for use on the premises or to its own facilities. Such plant shall be exempt from all provisions of this part.

§ 1068.9 Handler.

"Handler" means:

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

(b) Any cooperative association with respect to milk of a producer that is diverted for the account of the cooperative association from a pool plant of another handler in accordance with § 1068.13;

(c) Any cooperative association with respect to milk that it receives for its account from the farm of a producer for

delivery to a pool plant of another handler in a tank truck owned and operated by, or under the control of, such cooperative association, unless both the cooperative association and the operator of the pool plant notify the market administrator prior to the time that such milk is delivered to the pool plant that the plant operator will be the handler for such milk and will purchase such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples. Milk for which the cooperative association is the handler pursuant to this paragraph shall be deemed to have been received by the cooperative association at the location of the pool plant to which such milk is delivered;

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

(e) Any person who is a producer-handler;

(f) Any person in his capacity as the operator of an other order plant; and

(g) Any person in his capacity as the operator of an unregulated supply plant.

§ 1068.10 Producer-handler.

"Producer-handler" means any person who meets all of the following conditions:

(a) Operates a dairy farm and a distribution plant at which Grade A milk of his own production is processed and packaged, and from which there is route disposition in the marketing area;

(b) Receives no milk or fluid milk products from the farms of other dairy farmers nor from any other source, except receipts of not more than 50,000 pounds of fluid milk products during the month by transfer from pool plants of other handlers or from other order plants;

(c) Receives no nonfluid milk products from any source for use in reconstituting fluid milk products; and

(d) The maintenance, care, and management of the dairy animals and other resources necessary to produce such milk and the processing, packaging, and distribution of such milk are the personal enterprise, and the personal risk, of such person.

§ 1068.11 [Reserved]

§ 1068.12 Producer.

(a) Subject to the exception of paragraph (b) of this section, "producer" means any person who produces milk approved by a duly constituted regulatory agency for disposition as Grade A milk and whose milk is:

(1) Received at a pool plant directly from such person;

(2) Received by a handler described in § 1068.9(c); or

(3) Diverted from a pool plant in accordance with § 1068.13.

(b) "Producer" shall not include:

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

(2) Any person with respect to milk produced by him that 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 utilizations pursuant to § 1068.44(a)(8)(iii) and the corresponding step of § 1068.44(b); and

(3) Any person with respect to milk produced by him that 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.

§ 1068.13 Producer milk.

"Producer milk" means the skim milk and butterfat in milk of a producer that is:

(a) Received at a pool plant directly from such producer by the operator of the plant;

(b) Received by a handler described in § 1068.9(c);

(c) Picked up from the producer's farm tank in a tank truck owned and operated by, or under the control of, this operator of a pool plant but which is not received at a plant until the following month. Such milk shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm and shall be priced at the location of the plant where it is physically received in the following month. This paragraph shall apply in like manner to milk received by the operator of a pool plant who, in accordance with § 1068.9(c), is the handler for such milk;

(d) Diverted from a pool plant described in § 1068.7(a) for the account of the handler operating such plant to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(e) Diverted from a pool plant to a nonpool plant (other than a producer-handler plant) for the account of the handler operating such pool plant or for the account of a handler described in § 1068.9(b), subject to the following conditions:

(1) Milk of a dairy farmer shall not be eligible for diversion until milk of such dairy farmer is physically received as producer milk at a pool plant;

(2) The total quantity of milk diverted by a cooperative association during the month as a percent of the producer milk that the cooperative association causes to be delivered to or diverted from pool plants during the month shall not exceed the combined Class II and III utilization percentage for the same month of the prior year. (Upon the effective date of this order, the market administrator shall compute and announce the aggregate weighted average Class II and III utilization percentage of the four markets combined herein for the preceding 12-month period. Such computation shall be used in determining the diversion limitation pursuant to paragraph (e)(2) and (3) of this section during the first year the order is effective.);

(3) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk pursuant to paragraph (e)(2) of this section. The total quantity of milk so diverted during the month as a percent of the producer milk physically received at or diverted from such pool plant during the month that is eligible to be diverted by the plant operator shall not exceed the combined Class II and III utilization percentage for the same month of the prior year;

(4) Any milk diverted in excess of the limits prescribed in paragraph (e)(2) and (3) of this section shall not be producer milk. The diverting handler may designate the dairy farmers whose diverted milk will not be producer milk, otherwise the days of production last diverted shall be used in determining which milk should not be producer milk; and

(5) Diverted milk shall be priced at the location of the plant to which diverted.

§ 1068.14 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 § 1068.40(b)(1) from any source other than producers, handlers described in § 1068.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1068.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1068.40(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 § 1068.40(b)(1)) for which the handler fails to establish a disposition.

§ 1068.15 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: 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.

(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.

§ 1068.16 **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.

§ 1068.17 **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).

§ 1068.18 **Cooperative association.**

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

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

(b) Has full authority in the sale of milk of its members and is engaged in making collective sales of or marketing milk or its products for its members; and

(c) Has its entire activities under the control of its members.

HANDLER REPORTS

§ 1068.30 **Reports of receipts and utilization.**

On or before the 10th 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 § 1068.9(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 § 1068.40(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 § 1068.9 (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.

§ 1068.31 **Payroll reports.**

(a) On or before the last day of each month, each handler described in § 1068.9 (a), (b), and (c) shall report to the market administrator his producer payroll for the preceding 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 § 1068.76 (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.

§ 1068.32 **Other reports.**

In addition to the reports required pursuant to §§ 1068.30 and 1068.31, the following shall be reported to the market administrator:

(a) Each handler specified in § 1068.9 (g) who operates an unregulated supply plant shall report as required in § 1068.30, except that the receipts of skim milk and butterfat in Grade A milk shall be reported in lieu of those in producer milk.

(b) 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

§ 1068.40 **Classes of utilization.**

Except as provided in § 1068.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1068.30 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 paragraphs (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) are processed and from which (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 § 1068.15; and

(6) In shrinkage assigned pursuant to § 1068.41(a) to the receipts specified in § 1064.41(a)(2) and in shrinkage specified in § 1068.41(b) and (c).

§ 1068.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1068.30, 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);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1068.9(c) and in milk diverted to such plant from another pool plant, except that, in either case, 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 § 1068.9 (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.

§ 1068.42 Classification of transfers and diversions.

(a) *Transfers and diversions 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 the operators of both plants 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 § 1068.44(a)(12) and the corresponding step of § 1068.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1068.44(a)(7) or the corresponding step of § 1068.44(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 § 1068.44(a) (11) or (12) or the corresponding steps of § 1068.44(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 § 1068.40.

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

(1) As Class I milk, if transferred in the form of a fluid milk product; 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 producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

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

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

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

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of

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

(a) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1068.30 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 noonpool 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.

(e) *Transfers by a handled described in § 1068.9(c) to pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1068.9(c) to another handler's pool plant shall be classified with producer milk received at the transferee-handler's plant pursuant to § 1068.44(c).

§ 1068.43 General classification rules.

In determining the classification of producer milk, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1068.30 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 § 1068.9 (b) or (c) that was not received at a pool plant, the pounds of skim milk and butterfat, respectively, in each class in accordance with §§1068.40, 1068.41, and 1068.42. The combined pounds of skim milk and butterfat so determined in each class for a handler described in § 1068.9 (b) or (c) shall be such handler's classification of producer milk;

(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;

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1068.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association; and

(d) For classification purposes, pursuant to §§ 1068.40 through 1068.45, butterfat in skim milk either disposed of to others or used in the manufacture of milk products shall be accounted for at a butterfat content of 0.065 percent, unless the handler has adequate records of the actual butterfat content of such skim milk.

§ 1068.44 Classification of producer milk.

For each month the market administrator shall determine for each handler described in § 1068.9(a) for each of his separate pool plants the classification of producer milk and milk received from a handler described in § 1068.9(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 § 1068.41 (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 § 1068.40(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 § 1068.40(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 § 1068.40(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 re-

maining 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 § 1068.40(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, milk from a handler described in § 1068.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

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

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

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III the pounds of skim milk in fluid milk products and products specified in § 1068.40(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 ultilization 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 paragraph (a)(2), (7)(v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from 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 subtracted 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 paragraphs (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 § 1068.45(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 hander 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 computation 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 recipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1068.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, and milk received from a handler described in § 1068.9(c), 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 and milk received from a handler described in § 1068.9(c) 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.

§ 1068.45 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 § 1068.44(a)(12) and the corresponding step of § 1068.44(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 § 1068.44 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.

Class Prices

§ 1068.50 Class prices.

Subject to the provisions of § 1068.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.12.

(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.

§ 1068.51 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.

§ 1068.52 Plant location adjustments for handler.

(a) The following zones are defined for the purpose of determining location adjustments:

(1) Zone 1 shall include that territory, both inside and outside the marketing area, not included in Zones 2, 3, and 4.

(2) Zone 2 shall include:

(i) The Minnesota counties of Aitkin, Anoka, Becker, Benton, Big Stone, Carlton, Carver, Cass, Chippewa, Chisago, Crow Wing, Dakota, Dodge, Douglas, Fillmore, Goodhue, Grant, Houston, Hubbard, Isanti, Kanabec, Kandiyohi, Le Seur, McLeod, Meeker, Mille Lacs, Morrision, Nicollet, Otter Tail, Pine, Pope, Renville, Rice, Scott, Sibley, Sherburne, Stearns, Steele, Stevens, Swift, Todd, Traverse, Wabasha, Wadena, Waseca, Washington, Winona, Wilkins, and Wright;

(ii) The Wisconsin counties of Burnett, Calumet, Columbia, Crawford, Douglas (except the city of Superior), Green Lake, Manitowoc, Pierce, Polk, Richland, St. Croix, Sauk, Vernon, and Winnebago;

(iii) The Michigan counties of Dickinson, Gogebic, Iron, and Menominee; and

(iv) The Iowa County of Allamakee.

(3) Zone 3 shall include the Wisconsin counties of Adams, Ashland, Barron, Bayfield, Brown, Buffalo, Chippewa, Door, Dunn, Eau Claire, Florence, Forest, Iron, Juneau, La Crosse, Kewaunee, Marinette, Marquette, Monroe, Outagamie, Pepin, Rusk, Sawyer, Trempealeau, Washburn, Waupaca, Waushara, and Vilas.

(4) Zone 4 shall include the Wisconsin counties of Clark, Jackson, Langlade, Lincoln, Marathon, Menominee, Oconto, Oneida, Portage, Price, Shawano, Taylor, and Wood.

(b) For milk received at a plant from producers or a handler described in § 1068.9(c) and which is classified as Class I milk, the price specified in § 1068.52(a) shall be adjusted by the following amounts:

Zone:	*Adjustment per hundredweight*
1	No adjustment.
2	Minus 6¢.
3	Minus 10¢.
4	Minus 16¢.

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

§ 1068.53 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.

§ 1068.54 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

§ 1068.60 Handler's value of milk for determining pool obligation.

For the purpose of determining each handler's pool obligation, 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 § 1068.9 (b) and (c) with respect to milk that was not received at a pool plant, as follows:

(a) Multiply the pounds of producer milk and milk received from a handler described in § 1068.9(c) in each class as determined pursuant to § 1068.43(a) and § 1068.44(c) 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 § 1068.44(a)(14) and the corresponding step of § 1068.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1068.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1068.44(a)(9) and the corresponding step of § 1068.44(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 § 1068.44(a)(7) (i) through (iv) and the corresponding step of § 1068.44 (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 § 1068.44(a)(7) (v) and (vi) and the corresponding step of § 1068.44(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 § 1068.44(a) (11) and the corresponding step of § 1068.44(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) Subtract, for a handler described in § 1068.9(c), the amount obtained from multiplying the Class III price for the preceding month by the hundredweight of skim milk and butterfat contained in inventory at the beginning of the month that was delivered to another handler's pool plant during the month.

§ 1068.61 Computation of uniform price.

For each month the market administrator shall compute a uniform price per hundredweight of milk of 3.5 percent butterfat content as follows:

(a) Estimate the value of milk of all handlers who made the payments pursuant to § 1068.71 for the preceding month;

(b) Add an amount equal to the estimated value of the producer location adjustments;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting account by:

(1) The estimated hundredweight of producer milk; and

(2) The estimated hundredweight of other source milk for which a value is computed pursant to § 1068.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1068.62 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 11th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

§ 1068.70 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 §§ 1068.71, 1068.76, and 1068.77 and out of which he shall make all payments due handlers pursuant to §§ 1068.72 and 1068.77: *Provided*, That the market administrator shall offset any payments due any handler against payments due from such handler.

§ 1068.71 Payments to the producer-settlement fund.

(a) On or before the 15th 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 § 1068.60.

(2) The sum of:

(i) The value at the unform price, as adjusted pursuant to § 1068.75, of such handler's receipts of producer milk and milk received from a handler described in § 1068.9(c). In the case of a handler described in § 1068.9(c), less the amount due from other handlers pursuant to § 1068.73(c), exclusive of differential butterfat values; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1068.60(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 plan in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

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

§ 1068.72 Payments from the producer-settlement fund.

On or before the 17th 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 § 1068.71(a)(2) exceeds the amount computed pursuant to § 1068.71(a)(1): *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary fund become available.

§ 1068.73 Payments to producers and to cooperative associations.

Each handler shall pay for milk received from producers or cooperative associations as follows:

(a) On or before the third day after the end of the month, each handler shall make payment at not less than the uniform price (adjusted for his plant location) for the preceding month for skim milk and butterfat received during the first 15 days of the month to:

(1) A cooperative association that is a handler pursuant to § 1068.9 (a) or (c);

(2) A cooperative association that is not a handler but which is authorized to collect payment on behalf of its member producers; and

(3) A nonmember producer who has not authorized a cooperative association to market his milk and collect payment

on his behalf and who has not discontinued shipping milk to such handler.

(b) On or before the 11th day after the end of the month, each handler shall pay for skim milk and butterfat received during the month from a cooperative association which is a handler pursuant to § 1068.9(a) at not less than the value of such milk computed at the applicable class prices for the month at the location of the transferee or transferor plant, whichever is higher, less the partial payment pursuant to paragraph (a) of this section.

(c) On or before the 18th day after the end of the month, each handler shall make payment at not less than the uniform price for the month, as adjusted by the butterfat differential specified in § 1068.74 and location adjustments specified in § 1068.52, for all skim milk and butterfat received during the month (less the partial payment pursuant to paragraph (a) of this section) to:

(1) A cooperative association that is a handler pursuant to § 1068.9(c);

(2) A cooperative association that is not a handler but which is authorized to collect payment on behalf of its member producers; and

(3) A nonmember producer who has not authorized a cooperative association to market his milk and collect payment on his behalf.

(d) In making payments pursuant to paragraphs (a) and (c) of this section, deductions may be made for marketing service pursuant to § 1068.86 and for any proper deductions authorized by the producer. In the event a handler has not received full payment from the market administrator pursuant to § 1068.72 by the 18th day of the month, he may reduce pro rata his payments to producers pursuant to paragraph (c) by not more than the amount of such underpayment. Following receipt of the balance due from the market administrator, the handler shall complete payments to producers not later than the next payment date provided under this section.

(e) In making payment to individual producers as required by this section, each handler shall furnish each producer from whom he received milk a supporting statement, in such form that it may be retained by the producer, which shall show:

(1) The month involved, and the identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of the milk received from the producer;

(3) The minimum rate at which payment to the producer is required pursuant to this section;

(4) The rate used in making the payment, if such rate is other than the applicable minimum;

(5) The amount (or rate) per hundredweight of each deduction claimed under § 1068.86, together with a description of the respective deductions; and

(6) The net amount of the payment to the producer.

§ 1068.74 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.

§ 1068.75 Plant location adjustments for producers and on nonpool milk.

The uniform price for producer milk received at a pool plant or delivered to a nonpool plant shall be adjusted according to the location of the plant of actual receipt at the rates set forth in § 1068.52.

§ 1068.76 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 §§ 1068.30(b) and 1068.31(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, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

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

(1) Determine the value that would have been computed pursuant to § 1068.60 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 § 1068.60 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 § 1068.60 for such handler shall include, in lieu of the value of other source milk specified in § 1068.60(f) less the value of such other source milk specified in § 1068.71(a)(2)(ii), a value of milk determined pursuant to § 1068.60 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 § 1068.7(b), subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1068.30 (b) and 1068.31(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 § 1068.60 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 § 1068.74, 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 § 1068.74, 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.

§ 1068.77 Adjustment of accounts.

(a) Whenever verification by the market administrator of reports or payments by any handler discloses errors in payments to the producer-settlement fund pursuant to § 1068.71, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 5 days of such billing, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, the market administrator shall, within 5 days, make payments to such handler.

(b) Whenever verification by the market administrator of the payments by a handler to any producer or cooperative association discloses payment of less than is required by § 1068.73, the handler shall pay the balance due such producer or cooperative association not later than the time for making payments next following such disclosure.

§ 1068.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1068.71, 1068.76, and 1068.77(a), for which remittance has not been made by the close of business on the next day following the date specified for such payment shall be increased three-fourths of 1 percent for each month and any remaining amount due shall be increased at a similar rate on the corresponding day of each month thereafter until paid. The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid charges previously made pursuant to this section; and for the purpose of this section any obligation that was determined at a date later than prescribed by the order because of a handler's failure to submit a report to the market administrator when due, shall be considered to have been payable by the date it would have been due if the report had been filed when due.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1068.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 3 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Receipts of producer milk (including such handler's own production) other than:

(1) Receipts of producer milk by a handler described in § 1068.9(c) that were delivered to pool plants of other handlers; and

(2) Receipts of producer milk that were transferred to pool plants of other handlers (other than cooperative associations) by a cooperative association in its capacity as a handler pursuant to § 1068.9(a);

(b) Receipts from a handler described in § 1068.9(c);

(c) Receipts from a cooperative association in its capacity as a handler pursuant to § 1068.9(a);

(d) Other source milk allocated to Class I pursuant to § 1068.44(a) (7) and (11) and the corresponding steps of § 1068.44(b), except such other source milk that is excluded from the computations pursuant to § 1068.60 (d) and (f); and

(e) Route disposition from a partially regulated distributing plant in the marketing area that exceeds the skim milk and butterfat specified in § 1068.76(a) (2).

§ 1068.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments directly to producers (other than himself) pursuant to § 1068.73, shall deduct 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to all milk received from producers' farms during the month, and shall pay such deductions to the market administrator on or before the 15th day after the end of such month. Such moneys shall be expended by the market administrator to provide for market information and to verify the weights, samples, and tests of milk of producers who are not receiving such services from a cooperative association.

(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 each month shall pay such deductions to the cooperative association rendering such services, accompanied by a statement showing the quantity of milk for which a deduction was computed for each producer.

Part 1076—Milk in the Eastern South Dakota Marketing Area

1. Revise § 1076.2 to read as follows:

§ 1076.2 Eastern South Dakota marketing area.

"Eastern South Dakota marketing area," hereinafter called the "marketing area," means all of the territory within the counties listed below, including all territory within such counties which is occupied by government (municipal, State or Federal) reservations, installations, institutions, or other establishments:

IOWA COUNTY

Lyon

MINNESOTA COUNTIES

Lincoln.
Nobles.
Pipestone.
Rock.

SOUTH DAKOTA COUNTIES

Aurora.
Beadle.
Bon Homme.
Clark.
Clay.
Codington.
Davison.
Douglas.
Hamlin.
Hanson.
Hutchison.
Jerauld.
Kingsbury.
Lake.
Lincoln.
McCook.
Miner.
Minnehaha.
Moody.
Sanborn.
Spink.
Turner.
Union (except Jefferson Township and the city of North Sioux City and the unorganized territory adjacent thereto).
Yankton.

§ 1076.13 [Amended]

2. In § 1076.13(c)(3), change the words "from which diverted" to "to which diverted."

3. Revise § 1076.50(a) to read as follows:

§ 1076.50 Class prices.

Subject to the provisions of § 1076.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.40.

* * * * *

4. Revise § 1076.52(a) to read as follows:

§ 1076.52 Plant location adjustments for handlers.

(a) For milk received from producers at a plant located in Minnesota, North Dakota, or that portion of South Dakota north of U.S. Highway 90, and which is

classified as Class I milk, the price specified in § 1076.50(a) shall be reduced 1.5 cents for each 10 miles or fraction thereof (by shortest hard-surfaced highway distance as measured by the market administrator) that such plant is located from the nearer of the Post Offices of Mitchell or Sioux Falls, South Dakota.

* * * * *

Signed at Washington, D.C., on: October 22, 1975.

DONALD E. WILKINSON,
Administrator.

[FR Doc.75-28832 Filed 10-28-75;8:45 am]

federal register

WEDNESDAY, OCTOBER 29, 1975

PART IV:

DEPARTMENT OF THE INTERIOR

Office of the Secretary

■

PRIVACY ACT

Systems of Records

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[43 CFR Part 2]

SYSTEMS OF RECORDS

Notice of Proposed Exemptions

The Department of the Interior has under consideration exemption of four systems of records from certain of the provisions of section 3 of the Privacy Act of 1974, 5 U.S.C. 552a, and the Department's regulations implementing that section, 43 CFR, Part 2, Subpart D.

The systems of records involved are: (1) Endangered Species Licensee System (Interior/Fish and Wildlife Service—19); (2) Investigative Case File System (Interior/Fish and Wildlife Service—20); (3) Committee Management Files System (Interior/Office of the Secretary—1); and (4) Timber Cutting and Fire Trespass Claims Files System (Interior/Bureau of Indian Affairs—24).

Pursuant to 5 U.S.C. 552a(k) the first, second and fourth of these systems are proposed to be exempted from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f) of 5 U.S.C. 552a. The reason for proposing exemption of these four systems is the need to protect the investigative process, particularly in the pre-enforcement phase, from earlier or greater access than the subject would have through discovery in an enforcement proceeding. Exemption of these systems will insure that knowledge of activity alleged to violate statutes or regulations will not be prematurely disclosed. It will also insure that the possible enforcement action will not be prematurely disclosed. It will finally permit protection of the identity of confidential sources.

The Investigative Case File System has previously been exempted from a number of provisions of the Act as a criminal law enforcement records system. (See, 40 FR 37217). This additional exemption is necessary to exempt from access non-criminal enforcement records which it may contain.

Pursuant to 5 U.S.C. 552a(K)(5), the Committee Management Files System is proposed to be exempted from subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I) and (f) of 5 U.S.C. 552a to the extent that disclosure would reveal the identity of a confidential source who has supplied information in connection with an investigation conducted for the purpose of determining the suitability of an individual for employment. The system includes investigatory material compiled solely for the purpose of determining suitability, eligibility or qualifications for Federal civilian employment and exemption of the systems is necessary to protect the identity of persons who furnish information concerning applicants under a pledge of confidentiality.

To implement the proposed exemption of these systems, it is proposed, pursuant to 5 U.S.C. 301 and 552a and 43 U.S.C. 1460, to amend 43 CFR 2.79 by addition of new paragraphs numbered (b)(10), (b)(11) and (b)(12). These new paragraphs are set out below.

Comments on this proposal are welcome. They may be submitted to the Assistant Solicitor, General Legal Service, Office of the Solicitor, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240. All comments received on or before November 5, 1975, will be considered. Comments received will be available for inspection in Room 6525 at the above address.

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

OCTOBER 22, 1975.

1. In § 2.79 paragraphs (b) (11), (12), (13) and (c)(3) are added. These paragraphs read as follows:

§ 2.79 Exemptions.

(b) * * *

(11) Endangered Species Licensee System, Interior/FWS—19;

(12) Investigative Case File, Interior/FWS—20;

(13) Timber Cutting and Trespass Claims Files, Interior/BIA—24.

(c) * * *

(3) Committee Management Files, Interior/OS—1.

[FR Doc.75-28993 Filed 10-28-75;8:45 am]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

PRIVACY ACT OF 1974

Adoption of Additional Systems of Records Notices

By notice published in the FEDERAL REGISTER on September 19, 1975 (40 FR 43467–43477), the Department of the Interior proposed adoption of 35 notices describing systems of records which it maintains which are subject to section 3 of the Privacy Act of 1974, 5 U.S.C. 552a.

Comments on all portions of these notices except the "Routine uses" paragraphs were solicited by September 22, 1975. Comments on the "Routine uses" paragraphs were solicited with a deadline for submission of October 6, 1975.

No comments have been received on the non-"Routine uses" portions of the notices. A review of the notices by the Department indicated, however, a need to correct errors or omissions in some of the notices. Additionally, it is necessary to revise some notices to reflect adoption of the Department's Privacy Act regulations which exempt certain systems of records from specified portions of the Act.

The revisions necessitated by adoption of the Department's regulations are as follows:

The proposed notice for the Law Enforcement Services System (Interior/BIA–18) indicated that the system was proposed for exemption from specified portions of the Privacy Act under the authority of 5 U.S.C. 552a(j)(2). Since a regulation exempting the system has now been adopted, the "Systems exempted from certain provisions of the act" paragraph of the notice is revised to read: Under the general exemption authority provided by 5 U.S.C. 552a(j)(2), the Department of the Interior has adopted a regulation, 43 CFR 2.79(a), which exempts this system from all of the provisions of 5 U.S.C. 552a and the regulations in 43 CFR, Part 2, Subpart C, except subsections (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10) and (11) and (i) of 5 U.S.C. 552a and the portions of the regulations in 43 CFR, Part 2, Subpart C implementing these subsections. The reasons for adoption of this regulation are set out at 40 FR 37217 (August 26, 1975).

Similarly, the proposed notice for the Special Investigations, Coal Mine Health and Safety, System (Interior/MESA–10) indicated that the system was proposed for exemption from specified portions of the Act under the authority of 5 U.S.C. 552a(k)(2). The exemption paragraph of the notice is revised as follows to reflect adoption of the regulation: Under the specific exemption authority provided by 5 U.S.C. 552a(k)(2), the Department of the Interior has adopted a regulation, 43 CFR 2.79(b), which exempts this system from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H) and (I) and (f) and the portions of 43 CFR, Part 2, Subpart C which implement these provisions. The reasons for adoption of this regulation are set out at 40 FR 37217 (August 26, 1975).

Finally, the proposed notice for the National Research Council Grants Program System (Interior/GS—9) indicated that this system was proposed for exemption under the authority of 5 U.S.C. 552a(k)(5). Since a regulation exempting the system has been adopted, the exemption paragraph of the notice is revised to read: Under the specific exemption authority of 5 U.S.C. 552a(k)(5), the Department of the Interior has adopted a regulation (43 CFR 2.79(c)) which exempts this system from the provisions of 5 U.S.C. 552a(c)(3), (d), (e) system consists of investigatory material compiled solely for the purpose of determining suitability, eligibility or qualifications for federal civilian employment. The reasons for adoption of this regulation are set out at 40 FR 37217 (August 26, 1975).

Other modifications in the notices published on September 5, 1975, are as follows:

1. The title of the Travel Records System (Interior/OS—36) is changed to Travel Arrangement Records System to distinguish the system from a separate travel records system having to do with compensation of employees for travel which appears as Interior/OS—12.

2. The Biography File System is modified by additional system locations and additional system managers. As proposed, the system notice listed the system as being maintained only in the Department's Office of Communications. The system is, however, also maintained in various bureau public information offices and the addition of additional system locations will reflect this fact. (Readers will note that the system notice, as expanded, does not cover biography files maintained by the Bureau of Mines; these are covered by notice (Interior/Mines—10).)

The pertinent portions of the system notice are modified as follows:

System location: (1) Office of Communications, Research Office, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240. (2) Bureau public information offices in the Bureau of Indian Affairs, the Bureau of Reclamation, the U.S. Geological Survey, the Mining Enforcement and Safety Administration, the National Park Service, the U.S. Fish and Wildlife Service, the Office of Land Use and Water Planning, the Bonneville Power Administration, the Alaska Power Administration, the Southeastern Power Administration and the Southwestern Power Administration. (See System manager paragraph for addresses.)

System manager(s) and address: (Unless otherwise noted, the address for all system managers in U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240.) (1) For the Office of Communications: Director, Office of Communications. (2) For the Bureau of Indian Affairs: Director, Public Information Staff, Bureau of Indian Affairs. (3) For the Bureau of Reclamation: Chief, Office of Public Affairs, Bureau of Reclamation. (4) For the Geological Survey: Information Officer, U.S. Geological Survey, the National Center, Reston, Virginia 22092. (5) For MESA: Chief, MESA Information Office, Mining Enforcement and Safety Administration, Ballston Tower No. 3, 4015 Wilson Blvd., Arlington, Virginia 22203. (6) For the National Park Service: Assistant to the Director, Office of Public Affairs, National Park Service. (7) For the Fish and Wildlife Service: Assistant Director—Public Affairs, U.S. Fish and Wildlife Service. (8) For the Office of Land Use and Water Planning: Staff Assistant for Communications, Office of Land Use and Water Planning, 801 19th Street, NW., Washington, D.C. 20006. (9) For the Bonneville Power Administration: Information Officer, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208. (10) For the Alaska Power Administration: Administrator, Alaska Power Administration, P.O. Box 50, Juneau, Alaska 99801. (11) For the Southeastern Power Administration: Chief, Division of Administrative Management, Southeastern Power Administration, Samuel Elbert Bldg., Elberton, Georgia 30635. (12) For the Southwestern Power Administration: Public Information Specialist, Southwestern Power Administration, P.O. Drawer 1619, Tulsa, Oklahoma 74101.

Additionally, the notification, access and contest paragraphs of the notice for the Biography File System are modified to indicate that requests should be addressed to the appropriate system manager.

3. The "Record access procedures" paragraph of the notice for the Classified Documents System (Interior/OS—39) was printed as part of the notice for the Biography File System (Interior/OS—38). Both notices are modified to correct this error.

4. The name of the Office of Minerals Exploration System (Interior/GS—16) is modified to Office of Minerals Exploration Financial Assistance Applications System.

5. The "System manager(s) and address" paragraph was omitted from the notice for the Computer Service Users System (Interior/GS—18). This paragraph reads: Chief, Computer Center Division, U.S. Geological Survey, Mail Stop 801, National Center, Reston, Virginia 22092.

6. The notice for the Publications Division Management Information System (Interior/GS—19) duplicates the notice for the Management Information System, Publications Division (Interior/GS—17) and, accordingly, the notice is deleted.

Pursuant to the authority granted by 5 U.S.C. 301 and 552a and 43 U.S.C. 1460, the system notices published in the FEDERAL REGISTER for September 19, 1975, are, with the exception of the "Routine uses" paragraph of each notice, adopted with the revisions set forth above.

The Privacy Act took effect on September 27, 1975. So that these notices will be in effect when the Act takes effect, good cause for waiving the 30-day

period for effectiveness exists and the notices, accordingly, will be effective as of September 27, 1975.

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

OCTOBER 21, 1975.

[FR Doc.75-28904 Filed 10-24-75;8:45 am]

Office of the Secretary

PRIVACY ACT OF 1974

Additional Routine Uses

Notice is hereby given that, pursuant to 5 U.S.C. 301 and 552a and 43 U.S.C. 1460, the Department of the Interior has under consideration adoption of statements describing additional routine uses for records which it maintains which are subject to section 3 of the Privacy Act of 1974, 5 U.S.C. 552a.

A notice published in the FEDERAL REGISTER on September 5, 1975, proposed adoption of 205 notices describing records subject to section 3 of the Privacy Act. (40 FR 41432-41507.) By notice published in the FEDERAL REGISTER on September 26, 1975, these notices were adopted by the Department with some modifications. (40 FR 44517-44522.)

For several of the systems of records covered in these notices, the Department has identified additional routine uses which were not described in the notices. These routine uses are not new uses for the systems involved, but were uses overlooked in initial preparation of the notices.

The systems involved and the routine use statements which the Department proposes to adopt for each are as follows:

1. Private Relief Claimants, Department system (Interior/Office of the Secretary—16): (1) Disclosure to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that circular. (2) Disclosure to the congressional sponsor of a private relief bill and to representatives of the individual who is the subject of the legislation.

2. Great Lakes Commercial Fish Catch Records (Interior/Fish and Wildlife Service—14): Copies of records are provided upon request to the National Marine Fisheries Service as part of a cooperative agreement and to the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin for resource assessment, effective fishery management, economic and social considerations, and for ongoing biological research.

3. Endangered Species Licensee System (Interior/Fish and Wildlife Service—19) and Permits System (Interior/Fish and Wildlife Service—21): Publication in the FEDERAL REGISTER, as required by law.

4. Payroll Files System (Interior/Bonneville Power Administration—2): Transfer to the Department of the Treasury for issuance of checks to satisfy court orders authorizing garnishment under the provisions of Pub. L. 93-674.

Additionally, the Department has identified a further routine use for one system included in a group of notices which appeared in the FEDERAL REGISTER on October 10, 1975. (40 FR 49785). The system involved and the additional routine use are as follows:

Private Relief Claimants, Bureau System (Interior/OS—45): Disclosure to the congressional sponsor of a private relief bill and to representatives of the individual who is the subject of the legislation.

Comments on these proposed routine use statements may be submitted to the Assistant Solicitor, General Legal Services, Office of the Solicitor, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240. All comments received on or before November 5, 1975, will be considered. Copies of any comments received may be inspected in Room 6525 at the above address.

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

OCTOBER 22, 1975.

[FR Doc.75-28995 Filed 10-28-75;8:45 am]

PRIVACY ACT OF 1974

Additional Record System

The notice set out below describes an additional system of records which the Department of the Interior has identified as being subject to section 3 of the Privacy Act of 1974, 5 U.S.C. 552a. Pursuant to authority granted by 5 U.S.C. 301 and 552a and 43 U.S.C. 1460, the Department hereby adopts this notice, with the exception of the "Routine Uses" paragraph of the notice.

So that this notice will be in effect to meet the requirements of the Privacy Act, good cause for waiver of the 30-day period for effectiveness exists and the notice will, accordingly, take effect on September 27, 1975.

In accordance with the public policy expressed in 5 U.S.C. 553 and the Department's policy statement of May 4, 1971, the Department will, however, accept and consider any comments on this notice. Comments should be submitted to the Assistant Solicitor, General Legal Services, at the address given below and must be received by November 5, 1975.

The Privacy Act does require advance publication of the "Routine Uses" paragraph of system notices. The "Routine Uses" paragraph set out below is thus proposed for adoption and written public comments thereon are solicited.

Comments on the "Routine Uses" paragraph may be submitted to the Assistant Solicitor, General Legal Services, Office of the Solicitor, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240. All comments received on or before November 5, 1975, will be considered. Copies of any comments which are received will be available for inspection in Room 6525 at the above address.

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

OCTOBER 22, 1975.

Interior/Office of the Secretary—44.

System name: Freedom of Information Request Files System—Interior/Office of the Secretary—44.

System location: All facilities of the Department of the Interior which have received requests under the Freedom of Information Act seeking access to or copies of records.

Category of individual: Individuals who have submitted Freedom of Information requests.

Category of record: Requests, responses, related documents.

Authority: 5 U.S.C.

Route uses: (1) Decisions on Freedom of Information requests. (2) Disclosure to other agencies of the Federal Government having a subject matter interest in a request or an appeal or a decision thereon. (3) Transfer to the U.S. Department of Justice in connection with consultation on a request or in the event of litigation involving the records or the subject matter of the records. (4) Transfer in the event there is indicated a violation or potential violation of a statute, regulation, whether civil, criminal or regulatory in nature to the appropriate agency or agencies, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, order or license violated or potentially violated.

System manager: For the officer or bureau for which each is responsible, the head of each office making up the Office of the Secretary, each other Departmental office and each bureau. (See Appendix for addresses of office and bureau headquarters offices.)

Notification: Inquiries regarding the existence of records in the system shall be addressed to each facility to which an individual has submitted a Freedom of Information request. See 43 CFR 2.60 for submission requirements.

Access: A request for access shall be addressed to each facility to which the requester has submitted a Freedom of Information request. See 43 CFR 2.61 for submission requirements.

Contest: A petition for amendment shall be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

Sources: Requesters, internally generated documents.

Exemption: The Privacy Act does not entitle an individual to access to information compiled in reasonable anticipation of a civil action or proceeding.

[FR Doc.75-28996 Filed 10-28-75;8:45 am]

Office of the Secretary

PRIVACY ACT OF 1974

System Notice Modifications

By notice published in the FEDERAL REGISTER for September 26, 1975 (40 FR 44517–44524), the Department of the Interior adopted 205 notices describing records which it maintains which are subject to section 3 of the Privacy Act of 1974, 5 U.S.C. 552a. Pursuant to authority granted by 5 U.S.C. 301 and 552a and 43 U.S.C. 1460, the Department of the Interior hereby adopts the following modifications to these notices:

1. The notice for the Tort Claims Records System (Interior/FWS—4), is modified by addition of a "Systems exempted from certain provisions of the act" paragraph reading as follows: The Privacy Act does not entitle an individual to access to information compiled in reasonable anticipation of a civil action or proceeding.

2. The "Authority" paragraph of the notice for the Hunting and Fishing Survey Records System (Interior/FWS—6) is modified by adding: 16 U.S.C. 777–777k, 669–669i.

3. The "Authority" paragraph of the notice for the Fish Disease Inspection Report System (Interior/FWS—8) is modified by adding: Fish and Wildlife Act of 1956, 16 U.S.C. 742a–742l; Fish and Wildlife Coordination Act, 16 U.S.C. 661–666c.

4. The "Authority" paragraph of the notice for the Farm Pond Stocking Program Interior/FWS—9) is modified by adding: Fish and Wildlife Coordination Act, 16 U.S.C. 661–666c.

5. The "Authority" paragraph of the notice for the National Fish Hatchery Special Use Permits System (Interior/FWS—10) is modified by adding: 16 U.S.C. 460k–3.

6. The "Authority" paragraph of the notice for the Diagnostic-Extension Service Records System (Interior/FWS—17) is modified by adding: Fish and Wildlife Coordination Act, 16 U.S.C. 661–661c.

7. The notice for the Applicants Files System (Interior/OS—29) is modified by adding the words "in excepted and noncareer positions" to the end of the "Categories of individuals covered by the system" paragraph.

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

OCTOBER 22, 1975.

[FR Doc.75-28994 Filed 10-28-75;8:45 am]

GENERAL SERVICES ADMINISTRATION

PRIVACY ACT OF 1974

Systems of Records

On August 27, 1975, the General Services Administration (GSA) published notice of an inventory of its systems of records as defined and required by the Privacy Act of 1974 (40 FR 39137). Notice is hereby given that GSA proposes that the following routine use statement will apply to all GSA systems of records listed in the FEDERAL REGISTER.

ROUTINE USE—CONGRESSIONAL INQUIRIES

A record from this system of records may be disclosed as a routine use to a Member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

Any person interested in commenting on this proposed routine use may do so by sending written comments to the General Services Administration (BR), Washington, D.C. 20405, by November 23, 1975.

Dated at Washington, D.C. on October 21, 1975.

DWIGHT A. INK,
Acting Administrator.

[FR Doc.75-29012 Filed 10-28-75;8:45 am]

federal register

WEDNESDAY, OCTOBER 29, 1975

PART V:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary For Housing Production and Mortgage Credit

■

FAIR MARKET RENTS FOR HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING

Interim Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Housing Production and Mortgage Credit

[24 CFR Part 888]

[Docket No. R-75-311]

FAIR MARKET RENTS FOR HOUSING ASSISTANCE PAYMENTS PROGRAMS

Proposed Amendment of Schedule B; Interim Rule

On April 7, 1975, the Department published Fair Market Rents for Housing Assistance Payments Programs, section 8—Existing Housing and section 23—Existing Housing. Since April 7, 1975, the Department has received periodically additional comments and data that indicate a continuing need to revise these rents in light of the most recent data available. This material has been submitted by interested members of the general public as well as HUD Field Offices, and has generally indicated a need to increase the published rents in order to meet specific local housing market or submarket conditions. The following Fair Market Rent schedules for selected areas are proposed amendments to Schedule B of Part 888 of Title 24.

In addition to publishing proposed amendments to Schedule B of Part 888 of Title 24 that are in response to proposals submitted by the general public and HUD field offices, the Department is publishing proposed rental schedules for selected metropolitan and nonmetropolitan areas of New England in which Fair Market Rents had not been established previously.

Prior to making these Fair Market Rents effective, the Assistant Secretary for Housing Production and Mortgage Credit-FHA Commissioner has determined it to be reasonable and in the public interest to allow for a 15-day comment period; such comments may be addressed to the Rules Docket Clerk, address as given below.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the office of Rules Docket Clerk, Room 10245, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Schedule B will continue to be amended in the future in those local housing market or submarket areas where changes are deemed appropriate on the basis of available data and information.

Issued at Washington, D.C., October 20, 1975.

SANFORD A. WITKOWSKI,
Acting Assistant Secretary for Housing Production and Mortgage Credit-FHA Commissioner.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
BANGOR, MAINE INSURING OFFICE						
NON SMSA						
NONSMSA PART:ANDROSCOGGIN	NON-ELEVATOR:	124	140	165	190	206
STATE:ME	ELEVATOR:	136	154	182	209	227
NONSMSA PART:CUMBERLAND	NON-ELEVATOR:	124	140	165	190	206
STATE:ME	ELEVATOR:	136	154	182	209	227
NONSMSA PART:YORK	NON-ELEVATOR:	124	140	165	190	206
STATE:ME	ELEVATOR:	136	154	182	209	227
BOSTON, MASSACHUSETTS AREA OFFICE						
SMSA: BOSTON, MA						
SMSA PART:ESSEX	NON-ELEVATOR:	165	187	220	253	286
STATE:MA	ELEVATOR:	182	206	242	278	315
SMSA PART:PLYMOUTH	NON-ELEVATOR:	165	187	220	253	286
STATE:MA	ELEVATOR:	182	206	242	278	315
SMSA: BROCKTON, MA						
SMSA PART:BRISTOL	NON-ELEVATOR:	150	172	204	237	269
STATE:MA	ELEVATOR:	165	189	225	260	296
SMSA PART:NORFOLK	NON-ELEVATOR:	150	172	204	237	269
STATE:MA	ELEVATOR:	165	189	225	260	296
SMSA: FALL RIVER, MA-RI						
SMSA PART:BRISTOL	NON-ELEVATOR:	135	153	180	207	225
STATE:MA	ELEVATOR:	148	168	198	228	248
SMSA: FITCHBURG-LEOMINSTER, MA						
SMSA PART:MIDDLESEX	NON-ELEVATOR:	135	153	180	207	225
STATE:MA	ELEVATOR:	148	168	198	228	248
SMSA PART:WORCESTER	NON-ELEVATOR:	135	153	180	207	225
STATE:MA	ELEVATOR:	148	168	198	228	248
SMSA: LOWELL, MA NH						
SMSA PART:MIDDLESEX	NON-ELEVATOR:	135	153	180	207	225
STATE:MA	ELEVATOR:	148	168	198	228	248
SMSA: NEW BEDFORD, MA						
SMSA PART:PLYMOUTH	NON-ELEVATOR:	135	153	180	207	225
STATE:MA	ELEVATOR:	148	168	198	228	248

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
BOSTON,MASSACHUSETTS AREA OFFICE						
SMSA: PROVIDENCE-WARWICK-PAWTUCKET, RI-MA						
SMSA PART:BRISTOL	NON-ELEVATOR:	135	153	180	207	225
STATE:MA	ELEVATOR:	148	168	198	228	248
SMSA PART:NORFOLK	NON-ELEVATOR:	135	153	180	207	225
STATE:MA	ELEVATOR:	148	168	198	228	248
SMSA: PROVIDENCE-WARWICK-PAWTUCKET, RI-MA						
SMSA PART:WORCESTER	NON-ELEVATOR:	135	153	180	207	225
STATE:MA	ELEVATOR:	148	168	198	228	248
SMSA: SPRINGFIELD-CHICOPEE-HOLYOKE, MA-CT						
SMSA PART:WORCESTER	NON-ELEVATOR:	135	153	180	207	225
STATE:MA	ELEVATOR:	148	168	198	228	248
NON SMSA						
NONSMSA PART:BERKSHIRE	NON-ELEVATOR:	135	153	180	207	225
STATE:MA	ELEVATOR:	148	168	198	228	248
NONSMSA PART:BRISTOL	NON-ELEVATOR:	135	153	180	207	225
STATE:MA	ELEVATOR:	148	168	198	228	248
NONSMSA PART:ESSEX	NON-ELEVATOR:	150	172	204	237	269
STATE:MA	ELEVATOR:	165	189	225	260	296
NONSMSA PART:HAMPSHIRE	NON-ELEVATOR:	135	153	180	207	225
STATE:MA	ELEVATOR:	148	168	198	228	248
NONSMSA PART:MIDDLESEX	NON-ELEVATOR:	135	153	180	207	225
STATE:MA	ELEVATOR:	148	168	198	228	248
NONSMSA PART:NORFOLK	NON-ELEVATOR:	135	153	180	207	225
STATE:MA	ELEVATOR:	148	168	198	228	248
NONSMSA PART:PLYMOUTH	NON-ELEVATOR:	135	153	180	207	225
STATE:MA	ELEVATOR:	148	168	198	228	248
NONSMSA PART:WORCESTER	NON-ELEVATOR:	135	153	180	207	225
STATE:MA	ELEVATOR:	148	168	198	228	248
HARTFORD,CONNECTICUT AREA OFFICE						
SMSA: BRIDGEPORT, CT						
SMSA PART:NEW HAVEN	NON-ELEVATOR:	152	173	205	237	258
STATE:CT	ELEVATOR:	167	191	226	261	284

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
HARTFORD,CONNECTICUT AREA OFFICE						
SMSA: BRISTOL, CT						
SMSA PART:HARTFORD	NON-ELEVATOR:	145	165	195	225	246
STATE:CT	ELEVATOR:	159	181	215	248	271
SMSA PART:LITCHFIELD	NON-ELEVATOR:	145	165	195	225	246
STATE:CT	ELEVATOR:	159	181	215	248	271
SMSA: DANBURY, CT						
SMSA PART:FAIRFIELD	NON-ELEVATOR:	137	156	185	214	234
STATE:CT	ELEVATOR:	151	172	204	235	257
SMSA PART:LITCHFIELD	NON-ELEVATOR:	137	156	185	214	234
STATE:CT	ELEVATOR:	151	172	204	235	257
SMSA: HARTFORD, CT						
SMSA PART:LITCHFIELD	NON-ELEVATOR:	145	165	195	225	246
STATE:CT	ELEVATOR:	159	181	215	248	271
SMSA PART:MIDDLESEX	NON-ELEVATOR:	145	165	195	225	246
STATE:CT	ELEVATOR:	159	181	215	248	271
SMSA PART:NEW LONDON	NON-ELEVATOR:	145	165	195	225	246
STATE:CT	ELEVATOR:	159	181	215	248	271
SMSA: MERIDEN, CT						
SMSA PART:NEW HAVEN	NON-ELEVATOR:	137	156	185	214	234
STATE:CT	ELEVATOR:	151	172	204	235	247
SMSA: NEW BRITAIN, CT						
SMSA PART:HARTFORD	NON-ELEVATOR:	145	165	195	225	246
STATE:CT	ELEVATOR:	159	181	215	248	271
SMSA: NEW HAVEN-WEST HAVEN, CT						
SMSA PART:MIDDLESEX	NON-ELEVATOR:	137	156	185	214	234
STATE:CT	ELEVATOR:	151	172	204	235	257
SMSA: NEW LONDON-NORWICH, CT-RI						
SMSA PART:MIDDLESEX	NON-ELEVATOR:	132	150	178	205	224
STATE:CT	ELEVATOR:	145	165	195	226	247
SMSA: NORWALK, CT						
SMSA PART:FAIRFIELD	NON-ELEVATOR:	152	173	205	237	258
STATE:CT	ELEVATOR:	167	191	226	261	284

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING[INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM]

REGION 1		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
HARTFORD,CONNECTICUT AREA OFFICE						
SMSA: SPRINGFIELD-CHICOPEE-HOLYOKE, MA-CT						
SMSA PART:TOLLAND	NON-ELEVATOR:	135	153	180	207	225
STATE:CT	ELEVATOR:	148	168	198	228	248
SMSA: STAMFORD, CT						
SMSA PART:FAIRFIELD	NON-ELEVATOR:	152	173	205	237	258
STATE:CT	ELEVATOR:	167	191	226	261	284
SMSA: WATERBURY, CT						
SMSA PART:LITCHFIELD	NON-ELEVATOR:	137	156	185	214	234
STATE:CT	ELEVATOR:	151	172	209	235	257
SMSA PART:NEW HAVEN	NON-ELEVATOR:	137	156	185	214	234
STATE:CT	ELEVATOR:	151	172	209	235	257
NON SMSA						
NONSMSA PART:FAIRFIELD	NON-ELEVATOR:	137	156	185	214	234
STATE:CT	ELEVATOR:	151	172	209	235	257
NONSMSA PART:HARTFORD	NON-ELEVATOR:	145	165	195	225	246
STATE:CT	ELEVATOR:	159	181	215	248	271
NONSMSA PART:NEW HAVEN	NON-ELEVATOR:	137	156	185	214	234
STATE:CT	ELEVATOR:	151	172	204	235	257
NONSMSA PART:NEW LONDON	NON-ELEVATOR:	132	150	178	205	224
STATE:CT	ELEVATOR:	145	165	195	226	247
NONSMSA PART:TOLLAND	NON-ELEVATOR:	132	150	178	205	224
STATE:CT	ELEVATOR:	145	165	195	226	247
MANCHESTER,NEW HAMPSHIRE AREA OFFICE						
SMSA: LAWRENCE-HAVERHILL, MA-NH						
SMSA PART:ROCKINGHAM	NON-ELEVATOR:	150	172	204	237	269
STATE:NH	ELEVATOR:	165	189	225	260	296
SMSA: LOWELL, MA NH						
SMSA PART:HILLSBOROUGH	NON-ELEVATOR:	135	153	180	207	225
STATE:NH	ELEVATOR:	148	168	198	228	248
SMSA: MANCHESTER, NH						
SMSA PART:ROCKINGHAM	NON-ELEVATOR:	131	148	175	201	219
STATE:NH	ELEVATOR:	144	163	193	221	241

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
MANCHESTER,NEW HAMPSHIRE AREA OFFICE						
SMSA: NASHUA, NH						
SMSA PART:HILLSBOROUGH	NON-ELEVATOR:	131	148	175	201	219
STATE:NH	ELEVATOR:	144	163	193	221	241
NON SMSA						
NONSMSA PART:HILLSBOROUGH	NON-ELEVATOR:	131	148	175	201	219
STATE:NH	ELEVATOR:	144	163	193	221	241
NONSMSA PART:MERRIMACK	NON-ELEVATOR:	131	148	175	201	219
STATE:NH	ELEVATOR:	144	163	193	221	241
PROVIDENCE,RHODE ISLAND INSURING OFFICE						
SMSA: FALL RIVER, MA-RI						
SMSA PART:NEWPORT	NON-ELEVATOR:	135	153	180	207	225
STATE:RI	ELEVATOR:	148	168	198	228	248
SMSA: NEW LONDON-NORWICH, CT-RI						
SMSA PART:WASHINGTON	NON-ELEVATOR:	132	150	178	205	224
STATE:RI	ELEVATOR:	145	165	195	226	247
SMSA: PROVIDENCE-WARWICK-PAWTUCKET, RI-MA						
SMSA PART:NEWPORT	NON-ELEVATOR:	135	153	180	207	225
STATE:RI	ELEVATOR:	148	168	198	228	248
SMSA PART:WASHINGTON	NON-ELEVATOR:	135	153	180	207	225
STATE:RI	ELEVATOR:	148	168	198	228	248
NON SMSA						
NONSMSA PART:BRISTOL	NON-ELEVATOR:	135	153	180	207	225
STATE:RI	ELEVATOR:	148	168	198	228	248
NONSMSA PART:KENT	NON-ELEVATOR:	135	153	180	207	225
STATE:RI	ELEVATOR:	148	168	198	228	248
NONSMSA PART:PROVIDENCE	NON-ELEVATOR:	135	153	180	207	225
STATE:RI	ELEVATOR:	148	168	198	228	248

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REGION 2		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
CAMDEN,NEW JERSEY AREA OFFICE						
SMSA: VINELAND-MILLVILLE-BRIDGETON, NJ						
COUNTY:CUMBERLAND	NON-ELEVATOR:	124	140	165	190	206
STATE:NJ	ELEVATOR:	136	154	182	209	227
SMSA: WILMINGTON, DE-NJ-MD						
COUNTY:SALEM	NON-ELEVATOR:	135	153	180	207	234
STATE:NJ	ELEVATOR:	149	168	198	228	257
REGION 3						
BALTIMORE,MARYLAND AREA OFFICE						
SMSA: WILMINGTON, DE-NJ-MD						
COUNTY:CECIL	NON-ELEVATOR:	135	153	180	207	234
STATE:MD	ELEVATOR:	149	168	198	228	257
CHARLESTON,WEST VIRGINIA INSURING OFFICE						
NON SMSA						
COUNTY:MCDOWELL	NON-ELEVATOR:	94	106	125	138	150
STATE:WV	ELEVATOR:	103	117	138	152	165
COUNTY:MERCER	NON-ELEVATOR:	94	106	125	138	150
STATE:WV	ELEVATOR:	103	117	138	152	165
COUNTY:MONROE	NON-ELEVATOR:	94	106	125	138	150
STATE:WV	ELEVATOR:	103	117	138	152	165
COUNTY:RALEIGH	NON-ELEVATOR:	94	106	125	138	150
STATE:WV	ELEVATOR:	103	117	138	152	165
COUNTY:SUMMERS	NON-ELEVATOR:	94	106	125	138	150
STATE:WV	ELEVATOR:	103	117	138	152	165
COUNTY:WYOMING	NON-ELEVATOR:	94	106	125	138	150
STATE:WV	ELEVATOR:	103	117	138	152	165
WILMINGTON,DELAWARE INSURING OFFICE						
SMSA: WILMINGTON, DE-NJ-MD						
COUNTY:NEW CASTLE	NON-ELEVATOR:	135	153	180	207	234
STATE:DE	ELEVATOR:	149	168	198	228	257

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
JACKSONVILLE,FLORIDA AREA OFFICE						
SMSA: JACKSONVILLE, FL						
COUNTY:BAKER	NON-ELEVATOR:	120	136	160	184	200
STATE:FL	ELEVATOR:	132	150	176	202	220
COUNTY:CLAY	NON-ELEVATOR:	120	136	160	184	200
STATE:FL	ELEVATOR:	132	150	176	202	220
COUNTY:DUVAL	NON-ELEVATOR:	120	136	160	184	200
STATE:FL	ELEVATOR:	132	150	176	202	220
COUNTY:NASSAU	NON-ELEVATOR:	120	136	160	184	200
STATE:FL	ELEVATOR:	132	150	176	202	220
COUNTY:ST JOHNS	NON-ELEVATOR:	120	136	160	184	200
STATE:FL	ELEVATOR:	132	150	176	202	220
LOUISVILLE,KENTUCKY AREA OFFICE						
SMSA: LOUISVILLE, KY-IN						
COUNTY:BULLITT	NON-ELEVATOR:	118	134	159	184	201
STATE:KY	ELEVATOR:	129	148	175	202	220
COUNTY:JEFFERSON	NON-ELEVATOR:	118	134	159	184	201
STATE:KY	ELEVATOR:	129	148	175	202	220
COUNTY:OLDHAM	NON-ELEVATOR:	118	134	159	184	201
STATE:KY	ELEVATOR:	129	148	175	202	220
NON SMSA						
COUNTY:MCCRACKEN	NON-ELEVATOR:	93	110	135	147	160
STATE:KY	ELEVATOR:	100	119	146	158	172
REGION 5						
INDIANAPOLIS,INDIANA AREA OFFICE						
SMSA: LOUISVILLE, KY-IN						
COUNTY:CLARK	NON-ELEVATOR:	118	134	159	184	201
STATE:IN	ELEVATOR:	129	148	175	202	220
COUNTY:FLOYD	NON-ELEVATOR:	118	134	159	184	201
STATE:IN	ELEVATOR:	129	148	175	202	220

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REGION 5		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
MINNEAPOLIS-ST.PAUL,MINNESOTA AREA OFFICE						
SMSA: FARGO-MOORHEAD, ND-MN						
COUNTY:CLAY	NON-ELEVATOR:	114	129	152	167	182
STATE:MN	ELEVATOR:	125	142	167	184	200
NON SMSA						
COUNTY:BECKER	NON-ELEVATOR:	114	129	152	167	182
STATE:MN	ELEVATOR:	125	142	167	184	200
COUNTY:BLUE EARTH	NON-ELEVATOR:	143	162	190	209	228
STATE:MN	ELEVATOR:	157	178	209	230	251
COUNTY:CLEARWATER	NON-ELEVATOR:	114	129	152	167	182
STATE:MN	ELEVATOR:	125	142	167	184	200
COUNTY:KITTSON	NON-ELEVATOR:	114	129	152	167	182
STATE:MN	ELEVATOR:	125	142	167	184	200
COUNTY:MAHNOMEN	NON-ELEVATOR:	114	129	152	167	182
STATE:MN	ELEVATOR:	125	142	167	184	200
COUNTY:MARSHALL	NON-ELEVATOR:	114	129	152	167	182
STATE:MN	ELEVATOR:	125	142	167	184	200
COUNTY:NORMAN	NON-ELEVATOR:	114	129	152	167	182
STATE:MN	ELEVATOR:	125	142	167	184	200
COUNTY:OTTER TAIL	NON-ELEVATOR:	114	129	152	167	182
STATE:MN	ELEVATOR:	125	142	167	184	200
COUNTY:PENNINGTON	NON-ELEVATOR:	114	129	152	167	182
STATE:MN	ELEVATOR:	125	142	167	184	200
COUNTY:POLK	NON-ELEVATOR:	114	129	152	167	182
STATE:MN	ELEVATOR:	125	142	167	184	200
COUNTY:RED LAKE	NON-ELEVATOR:	114	129	152	167	182
STATE:MN	ELEVATOR:	125	142	167	184	200
COUNTY:ROSEAU	NON-ELEVATOR:	114	129	152	167	182
STATE:MN	ELEVATOR:	125	142	167	184	200
MINNEAPOLIS-ST.PAUL,MINNESOTA AREA OFFICE						
NON SMSA						
COUNTY:WILKIN	NON-ELEVATOR:	114	129	152	167	182
STATE:MN	ELEVATOR:	125	142	167	184	200

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
DES MOINES,IOWA INSURING OFFICE						
SMSA: CEDAR RAPIDS, IA						
COUNTY:LINN	NON-ELEVATOR:	134	154	182	211	239
STATE:IA	ELEVATOR:	147	169	200	232	263
SMSA: SIOUX CITY, IA-NE						
COUNTY:WOODBURY	NON-ELEVATOR:	123	140	146	191	217
STATE:IA	ELEVATOR:	135	154	182	211	239
OMAHA,NEBRASKA AREA OFFICE						
SMSA: SIOUX CITY, IA-NE						
COUNTY:DAKOTA	NON-ELEVATOR:	123	140	166	191	217
STATE:NE	ELEVATOR:	135	154	182	211	239
ST.LOUIS,MISSOURI AREA OFFICE						
NON SMSA						
COUNTY:COLE	NON-ELEVATOR:	116	132	155	171	186
STATE:MO	ELEVATOR:	128	145	171	188	205
REGION 8						
DENVER,COLORADO INSURING OFFICE						
SMSA: DENVER-BOULDER , CO						
COUNTY:ADAMS	NON-ELEVATOR:	142	161	190	210	229
STATE:CO	ELEVATOR:	156	177	209	231	252
COUNTY:ARAPAHOE	NON-ELEVATOR:	142	161	190	210	229
STATE:CO	ELEVATOR:	156	177	209	231	252
COUNTY:BOULDER	NON-ELEVATOR:	142	161	190	210	229
STATE:CO	ELEVATOR:	156	177	209	231	252
COUNTY:DENVER	NON-ELEVATOR:	142	161	190	210	229
STATE:CO	ELEVATOR:	156	177	209	231	252
COUNTY:DOUGLAS	NON-ELEVATOR:	142	161	190	210	229
STATE:CO	ELEVATOR:	156	177	209	231	252
COUNTY:GILPIN	NON-ELEVATOR:	142	161	190	210	229
STATE:CO	ELEVATOR:	156	177	209	231	252
COUNTY:JEFFERSON	NON-ELEVATOR:	142	161	190	210	229
STATE:CO	ELEVATOR:	156	177	209	231	252

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		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
REGION 8						
DENVER,COLORADO INSURING OFFICE						
FARGO,NORTH DAKOTA INSURING OFFICE						
SMSA: FARGO-MOORHEAD, ND-MN						
COUNTY:CASS	NON-ELEVATOR:	114	129	152	167	182
STATE:ND	ELEVATOR:	125	142	167	184	200
REGION 9						
HONOLULU,HAWAII INSURING OFFICE						
NON SMSA						
COUNTY:GUAM	NON-ELEVATOR:	204	230	272	314	357
STATE:	ELEVATOR:	0	0	0	0	0
SACRAMENTO,CALIFORNIA INSURING OFFICE						
SMSA: STOCKTON, CA						
COUNTY:SAN JOAQUIN	NON-ELEVATOR:	118	136	160	185	200
STATE:CA	ELEVATOR:	130	150	176	204	220
REGION 10						
ANCHORAGE,ALASKA INSURING OFFICE						
NON SMSA						
DISTRICT:CORDOVA-MCCA	NON-ELEVATOR:	232	264	311	342	375
STATE:AK	ELEVATOR:	255	290	342	377	412
DISTRICT:JUNEAU	NON-ELEVATOR:	232	264	311	342	375
STATE:AK	ELEVATOR:	255	290	342	377	412
DISTRICT:KETCHIKAN	NON-ELEVATOR:	232	264	311	342	375
STATE:AK	ELEVATOR:	255	290	342	377	412
DISTRICT:KODIAK	NON-ELEVATOR:	232	264	311	342	375
STATE:AK	ELEVATOR:	255	290	342	377	412
DISTRICT:SITKA	NON-ELEVATOR:	232	264	311	342	375
STATE:AK	ELEVATOR:	255	290	342	377	412
DISTRICT:VLDZ-CHTN-WH	NON-ELEVATOR:	232	264	311	342	375
STATE:AK	ELEVATOR:	255	290	342	377	412
DISTRICT:WRNGLL-PTRSB	NON-ELEVATOR:	232	264	311	342	375
STATE:AK	ELEVATOR:	255	290	342	377	412

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
PORTLAND, OREGON AREA OFFICE						
SMSA: SALEM, OR						
COUNTY:MARION	NON-ELEVATOR:	126	193	169	214	233
STATE:OR	ELEVATOR:	139	158	186	236	257
COUNTY:POLK	NON-ELEVATOR:	126	193	169	214	233
STATE:OR	ELEVATOR:	139	158	186	236	257

[FR Doc.75-28698 Filed 10-28-75;8:45 am]

federal register

WEDNESDAY, OCTOBER 29, 1975

PART VI:

ENVIRONMENTAL PROTECTION AGENCY

■

AIRCRAFT AND AIRCRAFT ENGINES

Control of Air Pollution

EPA

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 87]

[FRL 441-2]

CONTROL OF AIR POLLUTION FROM AIRCRAFT AND AIRCRAFT ENGINES

Extension of Compliance Date for Emission Standards Applicable to JT3D Engine

On July 17, 1973, the Environmental Protection Agency promulgated Part 87 establishing aircraft emission standards and test procedures (38 FR 19088). One provision of Part 87 in § 89.31(c) is applicable to exhaust emissions of smoke from JT3D engines (Class T3), beginning January 1, 1978.

On September 5, 1974, the Air Transport Association of America (ATA) submitted a petition to the EPA in behalf of 11 member airlines asking that the implementation date for this requirement be set back to March 1, 1981, and proposing that each operator of class T3 engines accomplish the necessary engine modifications in accordance with a plan approved by the EPA Administrator.

The ATA petition explained the need for an extension in time for compliance by pointing out that delays had been encountered by the manufacturer of the JT3D engine in the development of a suitable low smoke combustor, which postponed the start of the preliminary service tests from late 1972 until late 1974. Because of this full scale installation efforts cannot now begin until early 1977, after completion of a two year service test with 25 sets of combustors. The consideration of maintenance facilities and staff available for carrying out the installation program for all of the airlines represented by the ATA petition led to their recommendation of March, 1981, as a date by which all could comply.

This petition has been evaluated by the Environmental Protection Agency and it has been determined that some delay in the implementation date for this standard is justified, recognizing the additional time that has been required to develop a completely suitable low smoke combustor and the argument for a full two year service evaluation program with a pilot group of engines in scheduled airline service before starting a full scale retrofit program. The Federal Aviation Administration has separately recommended to EPA the desirability of the two year service evaluation program.

It is EPA's position that compliance with the smoke standard should be achieved as expeditiously as is practicable giving appropriate consideration to alternative retrofit schedules. A detailed analysis was made by EPA technical staff of the justification provided by the industry for the three year delay in compliance as well as alternative retrofit schedules achieving earlier compliance with the standard. This analysis, entitled "Analysis of Petition submitted to the Environmental Protection Agency by the Air Transport Association requesting a delay in implementation of the JT3D Engine Smoke Standard" and a copy of the petition will be available for inspection and copying at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, S.W., Washington, D.C. 20460.

The analysis concludes that the petitioner has not provided sufficient justification for a three year delay in the compliance date but that an 18 month delay is warranted and should be granted. The new effective date would be July 1, 1979. The agency proposes to deny the request to amend the regulation to provide for individually negotiated compliance schedules in addition to changing the effective date on the ground that such a procedure is unnecessary and impractical. The delay proposed provides for compliance as expeditiously as practicable by the parties subject to the standard.

This schedule can be accomplished by the airlines following the full two year service evaluation of a pilot group of low smoke combustors, by replacement of combustors in all engines which have been removed from aircraft for shop work of any kind. It is not expected that any engines would have to be removed for the specific purpose of combustor replacement in order to meet this schedule. The cost of compliance with the proposed schedule is comparable to the cost which would have been required to meet the original installation schedule with the engine manufactureres' first retrofit combustor design.

Interested persons may submit written data, views, or arguments (in quadruplicate) in regard to the proposed regulations to the Administrator, Environmental Protection Agency, Attention: Office of Mobile Source Air Pollution Control (AW-455), Washington, D.C. 20460. To be effectively considered, all relevant material should be received on or before December 15, 1975.

Comments submitted will be available for public inspection during normal business hours at the Public Information Unit, Environmental Protection Agency, Fourth and M Streets, S.W., Washington, D.C. 20460.

This notice of proposed rulemaking is issued under the authority of Section 231 of the Clean Air Act, as amended (42 U.S.C. 1857f-9).

Dated: October 22, 1975.

RUSSELL E. TRAIN,
Administrator.

It is proposed to amend Part 87, Chapter I of Title 40 of the Code of Federal Regulations as follows:

1. Section 87.31(c) is revised to read as follows:

§ 87.31 Standards of exhaust emissions.

* * * * *

(c) Exhaust emissions of smoke from each in-use aircraft gas turbine engine of Class T3, beginning July 1, 1979, shall not exceed: Smoke number of 25.

[FR Doc.75-29044 Filed 10-28-75;8:45 am]